



**DEPARTMENT OF THE NAVY**  
UNITED STATES FLEET FORCES COMMAND  
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5041  
Ser N01IG13/010  
23 Feb 2018

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From: Commander, U.S. Fleet Forces Command (N01IG)  
To: Naval Inspector General

Subj: NAVY REPRISAL INVESTIGATION 201701753; ALLEGED REPRISAL ACTIONS  
ICO (b)(6), (b)(7)(C)  
(b)(6), (b)(7)(C) USS HUE CITY

Ref: (a) NIGHTS CASE 201701753 of 17 May 17  
(b) DODD 7050.06, Military Whistleblower Protection

Encl: (1) U.S. Fleet Forces Command Inspector General Report of Investigation (ROI), 24 Jan 2018  
(2) Legal Sufficiency Review of ROI by (b)(6), (b)(7)(C), USFF Assistant Fleet Judge Advocate, 12 Feb 2018

1. Enclosures (1) and (2) and this letter are forwarded as a final response to reference (a).
2. USFF IG conducted an investigation of the complaint listed in reference (a) in accordance with guidance outlined in reference (b). Enclosure (1) Report of Investigation concluded, and enclosure (2) USFF Assistant Fleet Judge Advocate Legal Review concurred, that the actions identified in the allegations were not acts of reprisal in accordance with reference (b). I recommend this case be closed.

3. My point of contact for additional information is (b)(6), (b)(7)(C) Director of Investigations, U.S. Fleet Forces Command, (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

Fleet Inspector General

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# MILITARY WHISTLEBLOWER REPRISAL INVESTIGATION

(b)(6), (b)(7)(C)

USS HUE CITY

NIGHTS Case 201701753 – 24 January 2018

## EXECUTIVE SUMMARY

The U. S. Fleet Forces Command Office of the Inspector General (USFFIG) conducted this investigation in response to allegations that (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C) USS HUE CITY, (b)(6), (b)(7)(C), USS HUE CITY, and (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C) USS HUE CITY reprised against (b)(6), (b)(7)(C) in response to (b)(6), (b)(7)(C) protected communications.

Specifically, (b)(6), (b)(7)(C) alleged that on 24 April 2017, (b)(6), (b)(7)(C) found (b)(6), (b)(7)(C) guilty of violating UCMJ Article 92 at non-judicial punishment (NJP) and awarded (b)(6), (b)(7)(C) a Punitive Letter of Reprimand, in reprisal for (b)(6), (b)(7)(C) protected communications in violation of Title 10, United States Code, Section 1034 (10 U.S.C. §1034), Department of Defense Directive (DoDD) 7050.06, and Secretary of the Navy Instruction (SECNAVINST) 5370.7D, which prohibit reprisals against a military member for making or preparing to make or being perceived as having made or preparing to make a protected communication. USFF IG found (b)(6), (b)(7)(C) did not find (b)(6), (b)(7)(C) guilty of violating UCMJ Article 92 in reprisal for (b)(6), (b)(7)(C) protected communications; therefore, we concluded the allegation against (b)(6), (b)(7)(C) is **not-substantiated**.

(b)(6), (b)(7)(C) alleged that on or about 24 April 2017, (b)(6), (b)(7)(C) influenced (b)(6), (b)(7)(C) decision to find (b)(6), (b)(7)(C) guilty of violating UCMJ Article 92 at non-judicial punishment (NJP), in reprisal for (b)(6), (b)(7)(C) protected communications in violation of Title 10, United States Code, Section 1034 (10 U.S.C. §1034), Department of Defense Directive (DoDD) 7050.06, and Secretary of the Navy Instruction (SECNAVINST) 5370.7D, which prohibit reprisals against a military member for making or preparing to make or being perceived as having made or preparing to make a protected communication. USFF IG found (b)(6), (b)(7)(C) did not influence the decision to find (b)(6), (b)(7)(C) guilty of violating UCMJ Article 92 in reprisal for (b)(6), (b)(7)(C) protected communications; therefore, we concluded the allegation against (b)(6), (b)(7)(C) is **not-substantiated**.

(b)(6), (b)(7)(C) alleged that on or about 24 April 2017, (b)(6), (b)(7)(C) influenced (b)(6), (b)(7)(C) decision to find (b)(6), (b)(7)(C) guilty of violating UCMJ Article 92 at non-judicial punishment (NJP), in reprisal for (b)(6), (b)(7)(C) protected communications in violation of Title 10, United States Code, Section 1034 (10 U.S.C. §1034), Department of Defense Directive (DoDD) 7050.06, and Secretary of the Navy Instruction (SECNAVINST) 5370.7D, which prohibit reprisals against a military member for making or preparing to make or being perceived as having made or preparing to make a protected communication. USFF IG found (b)(6), (b)(7)(C) did not influence the decision to find (b)(6), (b)(7)(C) guilty of violating UCMJ Article 92 in reprisal for (b)(6), (b)(7)(C) protected communications; therefore, we concluded the allegation against (b)(6), (b)(7)(C) is **not-substantiated**.

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(b)(6), (b)(7)(C) also alleged that on 3 June 2017, (b)(6), (b)(7)(C) issued (b)(6), (b)(7)(C) Administrative Separation Processing (ADSEP) Notification in reprisal for (b)(6), (b)(7)(C) protected communications in violation of 10 U.S.C. §1034, DoDD 7050.06 and SECNAVINST 5370.7D, which prohibit reprisals against a military member for making or preparing to make or being perceived as having made or preparing to make a protected communication. USFF IG found (b)(6), (b)(7)(C) did not issue (b)(6), (b)(7)(C) Administrative Separation Processing (ADSEP) Notification in reprisal for (b)(6), (b)(7)(C) protected communications; therefore, we concluded the allegation against (b)(6), (b)(7)(C) is **not-substantiated**.

(b)(6), (b)(7)(C) alleged that on or about 3 June 2017, (b)(6), (b)(7)(C) influenced (b)(6), (b)(7)(C) decision to issue (b)(6), (b)(7)(C) Administrative Separation Processing (ADSEP) Notification in reprisal for (b)(6), (b)(7)(C) protected communications in violation of Title 10, United States Code, Section 1034 (10 U.S.C. §1034), Department of Defense Directive (DoDD) 7050.06, and Secretary of the Navy Instruction (SECNAVINST) 5370.7D, which prohibit reprisals against a military member for making or preparing to make or being perceived as having made or preparing to make a protected communication. USFF IG found (b)(6), (b)(7)(C) did not influence the decision to issue (b)(6), (b)(7)(C) Administrative Separation Processing (ADSEP) Notification in reprisal for (b)(6), (b)(7)(C) protected communications; therefore, we concluded the allegation against (b)(6), (b)(7)(C) is **not-substantiated**.

(b)(6), (b)(7)(C) alleged that on or about 3 June 2017, (b)(6), (b)(7)(C) influenced (b)(6), (b)(7)(C) decision to issue (b)(6), (b)(7)(C) Administrative Separation Processing (ADSEP) Notification in reprisal for his protected communications in violation of Title 10, United States Code, Section 1034 (10 U.S.C. §1034), Department of Defense Directive (DoDD) 7050.06, and Secretary of the Navy Instruction (SECNAVINST) 5370.7D, which prohibit reprisals against a military member for making or preparing to make or being perceived as having made or preparing to make a protected communication. USFF IG found (b)(6), (b)(7)(C) did not influence the decision to issue (b)(6), (b)(7)(C) Administrative Separation Processing (ADSEP) Notification in reprisal for (b)(6), (b)(7)(C) protected communications; therefore, we concluded the allegation against (b)(6), (b)(7)(C) is **not-substantiated**.

Furthermore, (b)(6), (b)(7)(C) alleged that on 20 June 2017, (b)(6), (b)(7)(C) requested (b)(6), (b)(7)(C) be detached for cause by reason of misconduct in reprisal for (b)(6), (b)(7)(C) protected communications in violation of 10 U.S.C. §1034, DoDD 7050.06, and SECNAVINST 5370.7D, which prohibit reprisals against a military member for making or preparing to make or being perceived as having made or preparing to make a protected communication. USFF IG found (b)(6), (b)(7)(C) did not request (b)(6), (b)(7)(C) be detached for cause in reprisal for (b)(6), (b)(7)(C) protected communications; therefore, we concluded the allegation against (b)(6), (b)(7)(C) is **not-substantiated**.

(b)(6), (b)(7)(C) alleged that on or about 20 June 2017, (b)(6), (b)(7)(C) influenced (b)(6), (b)(7)(C) decision to request (b)(6), (b)(7)(C) be detached for cause by reason of misconduct in reprisal for (b)(6), (b)(7)(C) protected communications in violation of 10 U.S.C. §1034, DoDD 7050.06, and SECNAVINST 5370.7D, which prohibit reprisals against a military member for making or preparing to make or being perceived as having made or preparing to make a protected communication. USFF IG found (b)(6), (b)(7)(C) did not influence the decision to request (b)(6), (b)(7)(C) be detached for cause in

reprisal for (b)(6), (b)(7) protected communications; therefore, we concluded the allegation against (b)(6), (b)(7)(C) (b)(6), (b)(7)(C) is **not-substantiated**.

(b)(6), (b)(7)(C) alleged that on or about 20 June 2017, (b)(6), (b)(7)(C) influenced (b)(6), (b)(7)(C) (b)(6), (b)(7)(C) decision to request (b)(6), (b)(7) be detached for cause by reason of misconduct in reprisal for (b)(6), (b)(7)(C) protected communications in violation of 10 U.S.C. § 1034, DoDD 7050.06, and SECNAVINST 5370.7D, which prohibit reprisals against a military member for making or preparing to make or being perceived as having made or preparing to make a protected communication. USFF IG found (b)(6), (b)(7)(C) did not influence the decision to request (b)(6), (b)(7)(C) be detached for cause in reprisal for (b)(6), (b)(7) protected communications; therefore, we concluded the allegation against (b)(6), (b)(7)(C) (C) is **not-substantiated**.

We recommend closing this case without any further action.

## BACKGROUND

In September 2016, (b)(6), (b)(7)(C) (b)(6), (b)(7)(C) reported to USS HUE CITY as (b)(6), (b)(7)(C) (b)(6), (b)(7)(C). (Tab 01)

On or about 15 November 2016, an anonymous complainant submitted a complaint to DoDIG Hotline. The complaint alleged (b)(6), (b)(7)(C) USS HUE CITY showed favoritism to Caucasians and females. *The complaint was forwarded to NAVINSGEN on 31 January 2017 as a Priority 3 Information Referral (NIGHTS Case 201700452). NAVINSGEN forwarded the case to USFFIG for action deemed appropriate 9 February 2017. USFFIG forwarded the case to CNSLIG on 10 February 2017 for actions deemed appropriate.* (Tab 02)

On 27 November 2016, CNSL IG hotline received a complaint from (b)(6), (b)(7)(C) that alleged leadership failures in the Chief's Mess and that (b)(6), (b)(7)(C) was not in control of the Chief's Mess. Additionally, the complaint alleged three Senior Chief Petty Officers would intimidate other crew members, and that the three Senior Chiefs and their subordinates were not held accountable for gun decking maintenance and not following tag out procedures. The complaint was entered into the Naval Inspector General Hotline Tracking System (NIGHTS) and given NIGHTS Case 201603795. On 29 November 2016, Commander, Naval Surface Force Atlantic (CNSL) referred the case to the Commanding Officer USS HUE CITY for action deemed appropriate. On 30 November 2016, (b)(6), (b)(7)(C) (b)(6), (b)(7) USS HUE CITY, appointed (b)(6), (b)(7)(C) (C) USS HUE CITY to inquire into the facts and circumstances identified in an anonymous CNSL IG hotline complaint (NIGHTS Case 201603795). On 18 December 2016, (b)(6), (b)(7)(C) provided Commander, Naval Surface Force Atlantic (CNSL) a response to the allegations raised in NIGHTS Case 201703795 via Commander, Carrier Strike Group TWO. (b)(6), (b)(7)(C) stated that the Executive Officer's investigation did not reveal any new issues that the command

leadership team was not already aware of and actively addressing. Specifically, (b)(6), (b)(7)(C) stated (b)(6), (b)(7)(C) had promulgated what (b)(6), (b)(7)(C) believed was a fair and equitable policy concerning Senior Chiefs standing in-port duty, the command had completed an investigation into two Sailors accused of tag out violations which resulted in both Sailors being taken to NJP and both were awarded appropriate punishment, (b)(6), (b)(7)(C) a robust CPO 365 training program, that the ship's command climate survey was completed on 21 August 2016 and that CCSG-2 endorsed the summary and plan of action on 24 November 2016. (b)(6), (b)(7)(C) explained that after reviewing the (b)(6), (b)(7)(C) investigation and based on (b)(6), (b)(7)(C) own knowledge of the issues raised, (b)(6), (b)(7)(C) did not intend to take further action. (Tab 03, 04)

On 7 February 2017, USS HUE CITY made a port visit to Klaipeda, Lithuania. (b)(6), (b)(7)(C) confirmed that (b)(6), (b)(7)(C) got a hotel room during the port visit and invited other Chiefs over to relax. During this port visit (b)(6), (b)(7)(C) had overnight liberty with (b)(6), (b)(7)(C), (b)(6), (b)(7)(C), (b)(6), (b)(7)(C), and (b)(6), (b)(7)(C) also socialized in (b)(6), (b)(7)(C) hotel room before the five Chiefs went out for the evening. In (b)(6), (b)(7)(C) testimony, (b)(6), (b)(7)(C) stated that (b)(6), (b)(7)(C) requested the key to the room while the group was at the bar and (b)(6), (b)(7)(C) gave it to (b)(6), (b)(7)(C) (Tab 05, 06, 07, 08)

On 16 February 2017, CNSL IG sent a command referral to the Commanding Officer USS HUE CITY for NIGHTS Case 201700452. The complaint concerned allegations that the (b)(6), (b)(7)(C) showed favoritism to Caucasians and females (b)(6), (b)(7)(C) did not lead the command well, and does not develop (b)(6), (b)(7)(C) new Chief Petty Officers. The referral stated the allegations in the anonymous complaint did not warrant an IG investigation but represented concerns more appropriately handled at the local command level. On 19 February 2017, (b)(6), (b)(7)(C) assigned (b)(6), (b)(7)(C), (b)(6), (b)(7)(C) USS HUE CITY to conduct a Preliminary Inquiry into the allegations raised in NIGHTS case 201700452. (Tab 09)

On 27 February 2017, (b)(6), (b)(7)(C) provided a written statement to (b)(6), (b)(7)(C) as part of the preliminary inquiry. (b)(6), (b)(7)(C) stated that (b)(6), (b)(7)(C) favored females, the ESWS program was being run poorly, and that (b)(6), (b)(7)(C) the Chief's Mess. (Tab 01, 09) **PC1**

On 28 February 2017, during an all Chief's meeting in the Chief's Mess, (b)(6), (b)(7)(C) (b)(6), (b)(7)(C), Engineering Department (b)(6), (b)(7)(C) (b)(6), (b)(7)(C) was also the ship's (b)(6), (b)(7)(C) (b)(6), (b)(7)(C) accused (b)(6), (b)(7)(C) of being the individual who had been submitting complaints against (b)(6), (b)(7)(C). (Tab 01, 05, 10) **PC2**

(b)(6), (b)(7)(C)

On 1 March 2017, (b)(6), (b)(7)(C) spoke with (b)(6), (b)(7)(C) and complained that as the ship's (b)(6), (b)(7)(C) representative, (b)(6), (b)(7)(C) shouldn't have made allegations against (b)(6), (b)(7)(C) like (b)(6), (b)(7)(C) did in the "All Chief's Meeting" on 28 February 2017. (Tab 01, 05) **PC3**

On 2 March 2017, according to (b)(6), (b)(7)(C), (b)(6), (b)(7)(C) had a discussion with (b)(6), (b)(7)(C) in which (b)(6), (b)(7)(C) informed the (b)(6), (b)(7)(C) that (b)(6), (b)(7)(C) can't be making allegations like (b)(6), (b)(7)(C) did in the Chief's Mess since (b)(6), (b)(7)(C) is the (b)(6), (b)(7)(C) (Tab 01) **PC4**

On 3 March 2017, (b)(6), (b)(7)(C) completed (b)(6), (b)(7)(C) PI and forwarded it to (b)(6), (b)(7)(C). (b)(6), (b)(7)(C) concluded that no further investigation was warranted, but (b)(6), (b)(7)(C) inquiry recommended a thorough review of the command collateral duty assignments, to codify a procedure for enlisted evaluation ranking boards, conduct regular CPO 365 training sessions, and pursue team building opportunities within the Chiefs' Mess. On 10 March 2017, (b)(6), (b)(7)(C) provided an addendum to (b)(6), (b)(7)(C) 3 March Preliminary Inquiry after reviewing the Command Collateral Duty List, the POAMs for the 2016 periodic E5, E6, and E7/E8 evaluations, and the ship's calendar for scheduled CPO 365 training. (b)(6), (b)(7)(C) concluded collateral duties were evenly spread throughout the Chief's Mess and that CPO 365 training was being scheduled and conducted. On 14 March 2017, (b)(6), (b)(7)(C) provided a response to CNSL IG via Commander, Carrier Strike Group TWO (CCSG-2) regarding the allegations made in NIGHTS Case 201700452. (b)(6), (b)(7)(C) stated, *"Based upon the PIO's investigation and my review, I assess that (b)(6), (b)(7)(C) operates fairly and provides sufficient opportunity for CPO development. (b)(6), (b)(7)(C) has my full trust and confidence to perform (b)(6), (b)(7)(C) duties."* On 17 March 2017, (b)(6), (b)(7)(C), Commander, Carrier Strike Group TWO endorsed the USS Hue City's response. (b)(6), (b)(7)(C) stated, *"After careful consideration, I concur with the Commanding Officer that no further action is required."* (Tab 09, 11)

On 15 April 2017, USS HUE CITY made a port visit to Port Victoria, Seychelles. (Tab 12)

On 15 April 2017, a liberty incident involving (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) was reported up the chain of command. Both service members were swimming together in the ocean at approximately 2230 in their underwear. (b)(6), (b)(7)(C) observed the situation and ordered both members out of the water. Shore Patrol was notified and (b)(6), (b)(7)(C) was returned to the ship and (b)(6), (b)(7)(C) was ordered to (b)(6), (b)(7)(C) room ashore and returned to the ship in the morning. (b)(6), (b)(7)(C) took statements from (b)(6), (b)(7)(C), (b)(6), (b)(7)(C) and the witnesses to the liberty incident on 16 and 17 April 2017. (Tab 05, 12)

On 17 April 2017, CNSL IG received an anonymous complaint (NIGHTS 201701332) from (b)(6), (b)(7)(C). The complaint questioned (b)(6), (b)(7)(C) leadership and ability to control the Chief's Mess. The lack of Chief training and an ineffective CPO 365 program are

<sup>2</sup> In (b)(6), (b)(7)(C) 23 May 2017 clarification interview, (b)(6), (b)(7)(C) stated that (b)(6), (b)(7)(C) spoke with (b)(6), (b)(7)(C) about (b)(6), (b)(7)(C) concerns regarding the allegations (b)(6), (b)(7)(C) had publicly made against (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) do not recall this conversation taking place.

additional issues cited in the complaint. The complainant also alleged that certain members of the Chief's Mess get preferential treatment. (Tab 13)

On 17 April 2017, CNSL IG received an anonymous complaint (NIGHTS 201701341) from (b)(6), (b)(7)(C). The complaint questioned (b)(6), (b)(7)(C) leadership and ability to control the Chief's Mess. The lack of Chief training and an ineffective CPO 365 program are additional issues cited in the complaint. The complainant also alleged that certain members of the Chief's Mess get preferential treatment. On 18 April 2017, CNSL forwarded NIGHTS Case 201701332 and 201701341 to (b)(6), (b)(7)(C) as a referral for informational purposes only. CNSL determined the complaints raised the same issues previously addressed in NIGHTS Case 201603795 and 201700452. CNSL IG stated they considered the matter closed. (Tab 14, 15)

On 18 April 2017, NAVINSGEN received an anonymous complaint from (b)(6), (b)(7)(C) regarding mismanagement, favoritism, and lack of leadership on USS HUE CITY. The complaint was entered as NIGHTS Case 201701352 and forwarded to USFF IG for appropriate action. USFF IG forwarded the case to CNSL IG on 19 April 2017. CNSL IG reviewed the complaint and determined it was a duplicate of NIGHTS Case 201701332 and discarded the complaint. (Tab 16)

On 19 April 2017, (b)(6), (b)(7)(C) found a note in the USS HUE CITY CO's suggestion box that read, "Ask (b)(6), (b)(7)(C) how many times (b)(6), (b)(7)(C) gave (b)(6), (b)(7)(C) head in (b)(6), (b)(7)(C) office or how many times (b)(6), (b)(7)(C) been to (b)(6), (b)(7)(C) house or (b)(6), (b)(7)(C) who slept with (b)(6), (b)(7)(C) in Estonia." (b)(6), (b)(7)(C) stated that as soon as (b)(6), (b)(7)(C) found the note (b)(6), (b)(7)(C) took it to (b)(6), (b)(7)(C). (Tab 05, 17, 18)

On 19 April 2017, (b)(6), (b)(7)(C) had a meeting with (b)(6), (b)(7)(C) to discuss the allegation made on the note found in the CO's Suggestion Box earlier that day. Also in the room for the meeting were (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C), USS HUE CITY (b)(6), (b)(7)(C). (b)(6), (b)(7)(C) explained that (b)(6), (b)(7)(C) showed (b)(6), (b)(7)(C) the note and asked (b)(6), (b)(7)(C) if the allegation that (b)(6), (b)(7)(C) slept with (b)(6), (b)(7)(C) was true. (b)(6), (b)(7)(C) stated (b)(6), (b)(7)(C) admitted to sleeping with (b)(6), (b)(7)(C) and that (b)(6), (b)(7)(C) had told (b)(6), (b)(7)(C), (b)(6), (b)(7)(C), and (b)(6), (b)(7)(C). (b)(6), (b)(7)(C) then met with (b)(6), (b)(7)(C), (b)(6), (b)(7)(C), USS HUE CITY (b)(6), (b)(7)(C) and asked (b)(6), (b)(7)(C) if the allegation in the note was true. (b)(6), (b)(7)(C) denied the allegation. (b)(6), (b)(7)(C) then had (b)(6), (b)(7)(C) initiate inquiries into the allegations against (b)(6), (b)(7)(C), (b)(6), (b)(7)(C), and the four Chiefs who (b)(6), (b)(7)(C) said had knowledge of the fraternization (b)(6), (b)(7)(C), (b)(6), (b)(7)(C), (b)(6), (b)(7)(C), and (b)(6), (b)(7)(C)). (Tab 05, 17)

On 19 April 2017, (b)(6), (b)(7)(C) assigned (b)(6), (b)(7)(C) to inquire into the facts and circumstances surrounding the sexual harassment incident involving (b)(6), (b)(7)(C) from 26 December 2016 to 15 April 2017. The allegation that (b)(6), (b)(7)(C) had made inappropriate comments to (b)(6), (b)(7)(C) came to light while the command was looking into the allegations of fraternization against (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) with (b)(6), (b)(7)(C). On 20 April 2017, (b)(6), (b)(7)(C) completed (b)(6), (b)(7)(C) PI. (b)(6), (b)(7)(C) found that in December 2016, (b)(6), (b)(7)(C) asked (b)(6), (b)(7)(C) if (b)(6), (b)(7)(C) was "interested in having a

romantic relationship” and was in violation of the Navy’s fraternization policy. Additionally, (b)(6), (b)(7)(C) found (b)(6), (b)(7)(C) culpable of conduct unbecoming a Chief Petty Officer and (b)(6), (b)(7)(C) culpable of disorderly conduct related to the liberty incident on 15 April 2017 during the ship’s port visit to Port Victoria, Seychelles. (b)(6), (b)(7)(C) recommended NJP for both (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) (Tab 12)

On 20 April 2017, (b)(6), (b)(7)(C) was given (b)(6), (b)(7)(C) Article 31B Right and provided a statement related to the allegations of fraternization with (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C). (b)(6), (b)(7)(C) confirmed that (b)(6), (b)(7)(C) had sexual relations with (b)(6), (b)(7)(C) on 7 February 2017 during the ship’s port visit to Klaipeda, Lithuania. (b)(6), (b)(7)(C) also confirmed that (b)(6), (b)(7)(C) had an ongoing sexual relationship with (b)(6), (b)(7)(C). (Tab 53)

On 20 April 2017, (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) made voluntary statements to (b)(6), (b)(7)(C) concerning the alleged fraternization incident that occurred between (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) during the 7 February 2017 port visit to Klaipeda, Lithuania. Both (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) denied having any knowledge of the alleged fraternization. (Tab 08, 54)

On 20 April 2017, (b)(6), (b)(7)(C) made a voluntary statement to (b)(6), (b)(7)(C) concerning the liberty incident that occurred between (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) during the 7 February 2017 port visit to Klaipeda, Lithuania. (b)(6), (b)(7)(C) stated when (b)(6), (b)(7)(C) returned to (b)(6), (b)(7)(C) hotel room with (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) to retrieve their gear before heading back to the ship, (b)(6), (b)(7)(C) did mention that (b)(6), (b)(7)(C) had (b)(6), (b)(7)(C) in the room earlier. (b)(6), (b)(7)(C) stated (b)(6), (b)(7)(C) didn’t recall hearing anything about sexual intercourse. (Tab 19)

On 20 April 2017, (b)(6), (b)(7)(C) made a voluntary statement to (b)(6), (b)(7)(C) concerning the liberty incident that occurred between (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) during the 7 February 2017 port visit to Klaipeda, Lithuania. In (b)(6), (b)(7)(C) statement (b)(6), (b)(7)(C) said, “Once we all went back to the hotel (b)(6), (b)(7)(C) told us that (b)(6), (b)(7)(C) had sexual relations with (b)(6), (b)(7)(C).” (Tab 20)

On 21 April 2017, (b)(6), (b)(7)(C) was found guilty of violating UCMJ Article 89 (Disrespect toward a Superior Commissioned Officer) and UCMJ Article 134 (Disorderly Conduct-Drunkenness) at NJP. (b)(6), (b)(7)(C) was awarded a Punitive Letter of Reprimand. (Tab 21)

On 22 April 2017, the command preferred charges against (b)(6), (b)(7)(C), (b)(6), (b)(7)(C), (b)(6), (b)(7)(C), and (b)(6), (b)(7)(C). They were charged with violating UCMJ Article 92 (Failure to obey order or regulation). The allegation specification stated from 7 February 2017 through 19 April 2017 (b)(6), (b)(7)(C) had violated Article 1137 U.S. Navy Regulations by failing to report UCMJ offenses which had come under (b)(6), (b)(7)(C) observation; specifically that (b)(6), (b)(7)(C) wrongfully engaged in an unduly familiar relationship with (b)(6), (b)(7)(C) while assigned to the same command. (Tab 08, 22, 23)



On 22 and 23 April 2017, (b)(6), (b)(7)(C) conducted (b)(6), (b)(7)(C) for (b)(6), (b)(7)(C), (b)(6), (b)(7)(C), (b)(6), (b)(7)(C), and (b)(6), (b)(7)(C). (Tab 55) (b)(6), (b)(7)(C) recommended all the cases proceed to NJP. (Tab 08, 22, 23, 24, 25)

On 23 April 2017, (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) were found guilty of violating UCMJ Article 92 (Failure to obey order or regulation) and UCMJ Article 134 (Adultery) at NJP. (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) were each awarded a Punitive Letter of Reprimand. (Tab 24, 25)

On 23 April 2017, (b)(6), (b)(7)(C) addressed the Chiefs Mess after the NJP for (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C). Several witnesses claim (b)(6), (b)(7)(C) made a statement to the effect, "I told (b)(6), (b)(7)(C) I told (b)(6), (b)(7)(C) what had happened and (b)(6), (b)(7)(C) wouldn't speak to me for weeks." On 24 April 2017, (b)(6), (b)(7)(C) assigned (b)(6), (b)(7)(C) to inquire into the allegations that (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) had knowledge of (b)(6), (b)(7)(C) sexual relationship with (b)(6), (b)(7)(C). (Tab 26)

On 24 April 2017, (b)(6), (b)(7)(C), (b)(6), (b)(7)(C), (b)(6), (b)(7)(C), and (b)(6), (b)(7)(C) were found guilty of violating UCMJ Article 92 at NJP. (b)(6), (b)(7)(C), (b)(6), (b)(7)(C), and (b)(6), (b)(7)(C) were awarded a Punitive Letter of Reprimand. (b)(6), (b)(7)(C) was awarded an Oral Admonition. (Tab 08, 22, 23, 27) **PA1**

On 25 April 2017, (b)(6), (b)(7)(C) submitted a confidential complaint to CNSL IG. (b)(6), (b)(7)(C) raised the same issues already addressed in NIGHTS cases 201701332 and 201701341. CNSL IG forwarded the case to (b)(6), (b)(7)(C) as an "Information Only" referral. CNSL IG closed the case on 26 April 2017. (Tab 28) **PC5**

On 27 April 2017, (b)(6), (b)(7)(C) submitted (b)(6), (b)(7)(C) Appeal of Non-Judicial Punishment to Commander, Carrier Strike Group TWO via Commanding Officer, USS HUE CITY. (b)(6), (b)(7)(C) stated (b)(6), (b)(7)(C) felt the punishment awarded was disproportionate and unjust. (Tab 29) **PC6**

On 30 April 2017, (b)(6), (b)(7)(C) was taken to NJP for violating UCMJ Article 92 (Failure to obey order or regulation). There were two specifications; the first was that on 7 February 2017 (b)(6), (b)(7)(C) violated OPNAVINST 5370.2D (Navy Fraternalization Policy) when (b)(6), (b)(7)(C) engaged in an unduly familiar relationship with (b)(6), (b)(7)(C). The second specification was that from July 2014 through May 2016 (b)(6), (b)(7)(C) violated OPNAVINST 5370.2D (Navy Fraternalization Policy) when (b)(6), (b)(7)(C) engaged in an unduly familiar relationship with (b)(6), (b)(7)(C). (b)(6), (b)(7)(C) was found guilty and awarded a reduction in rank to E-4. (Tab 07)

On 1 May 2017, (b)(6), (b)(7)(C) submitted (b)(6), (b)(7)(C) Preliminary Inquiry to (b)(6), (b)(7)(C). (b)(6), (b)(7)(C) recommendation stated, "Based on the statements and evidence available, this inquiry is unable to provide any conclusion evidence that (b)(6), (b)(7)(C) or (b)(6), (b)(7)(C) failed to report fraternization. Further investigation may be required, to include interviews of the CPO's that have since been detached, however, with the evidence provided, there are no concrete facts present that would lead this inquiry to believe (b)(6), (b)(7)(C) or (b)(6), (b)(7)(C) failed to report a fraternization incident." (Tab 26)

On 9 May 2017, “lonelysailors1995” submitted an email complaint to NAVINSGEN, USFF IG, and CNSL IG Hotlines (NIGHTS Case 201701644). The complainant raises issues of gender and racial bias in how NJP cases are handled on USS HUE CITY. The case was referred to CSG-2 for actions deemed appropriate. (Tab 30)

On 9 May 2017, NAVINSGEN and USFF IG received an email complaint from the (b)(6), (b)(7)(C) (b)(6), (b)(7)(C) alleging their son (b)(6), (b)(7)(C) assigned to the USS HUE CITY was assaulted by another crew member (NIGHTS 201701651). The issues raised in the complaint were addressed in NIGHTS Case 201701624 by USFF IG. (Tab 31)

On 10 May 2017, (b)(6), (b)(7)(C) endorsed (b)(6), (b)(7)(C) Preliminary Inquiry. (b)(6), (b)(7)(C) stated (b)(6), (b)(7)(C) had carefully reviewed the preliminary inquiry and concurred with (b)(6), (b)(7)(C) findings and recommendations. Additionally, (b)(6), (b)(7)(C) stated that the PIO did not find any conclusive evidence that (b)(6), (b)(7)(C) or (b)(6), (b)(7)(C) had knowledge of CPO fraternization prior to 19 April 2017 and that without further evidence (b)(6), (b)(7)(C) considered the investigation closed. (Tab 26)

On 12 May 2017, (b)(6), (b)(7)(C) endorsed the Appeals of Non-Judicial Punishment from (b)(6), (b)(7)(C) (b)(6), (b)(7)(C), (b)(6), (b)(7)(C), (b)(6), (b)(7)(C), and (b)(6), (b)(7)(C). (b)(6), (b)(7)(C) forwarded the packages to Commander, Carrier Strike Group TWO with the recommendation that the appeals be denied. (Tab 22-25, 32)

On 17 May 2017, (b)(6), (b)(7)(C) submitted a reprisal complaint to the USFF IG hotline. (b)(6), (b)(7)(C) stated that (b)(6), (b)(7)(C) was taken to mast and found guilty of violating UCMJ Article 92 as an act of reprisal. (b)(6), (b)(7)(C) stated (b)(6), (b)(7)(C) believed (b)(6), (b)(7)(C) was the command member who had submitted complaints against (b)(6), (b)(7)(C). (Tab 33) **PC7**

On 3 June 2017, (b)(6), (b)(7)(C) issued (b)(6), (b)(7)(C), (b)(6), (b)(7)(C), (b)(6), (b)(7)(C), (b)(6), (b)(7)(C), and (b)(6), (b)(7)(C) Administrative Separation Processing Notification. Commission of a serious offense was listed as the reason for separation. (Tab 34-38) **PA2**

On 20 June 2017, (b)(6), (b)(7)(C) requested (b)(6), (b)(7)(C), (b)(6), (b)(7)(C), (b)(6), (b)(7)(C), (b)(6), (b)(7)(C), and (b)(6), (b)(7)(C) be detached for cause from USS HUE CITY by reason of misconduct. (Tab 39) **PA3**

## STATUTORY AUTHORITY AND SCOPE OF INVESTIGATION

USFF IG conducted this whistleblower reprisal investigation pursuant to Title 10, United States Code, Section 1034 (10 U.S.C. 1034), “Protected communications; prohibition of retaliatory personnel actions,” which is implemented by DoD Directive 7050.06, “Military Whistleblower Protection,” and SECNAVINST 5370.7D, “Military Whistleblower Reprisal Protection.”

The statute and its implementing directive and instruction prohibit taking or threatening to take unfavorable personnel actions or withholding or threatening to withhold favorable personnel

actions as reprisal against a member of the armed forces for making or preparing to make a protected communication. A protected communication is defined as any lawful communication to a Member of Congress or an IG. DODD 7050.06 also defines a PC as a communication in which a member of the Armed Forces communicates information that the member reasonably believes evidences a violation of law or regulation to include a law or regulation prohibiting rape, sexual assault, or other sexual misconduct in violation of articles 120 through 120c of the Uniform Code of Military Justice, sexual harassment or unlawful discrimination; gross mismanagement, a gross waste of funds or other resources; an abuse of authority, or a substantial and specific danger to public health or safety; a threat by another member of the Armed Forces or employee of the Federal Government that indicates a determination or intent to kill or cause serious bodily injury to members of the Armed Forces or civilians, or damage to military, Federal, or civilian property; testimony, or otherwise participating in or assisting in an investigation or proceeding related to a communication described above; or filing, or causing to be filed, participating in, or otherwise assisting in a military whistleblower reprisal action, when such communication is made to any of the following: A Member of Congress; an IG; a member of a DoD audit, inspection, investigation, or law enforcement organization; any person or organization in the chain of command; or any other person designated pursuant to regulations or other established administrative procedures to receive such communications.

The elements of reprisal are protected communications; knowledge of the protected communications on the part of the responsible management official; a personnel action taken, threatened, or withheld; and a causal connection between the protected communication and the personnel action. The causal connection is resolved by answering the question in paragraph D, below. If the evidence does not establish the personnel action would have been taken, threatened, or withheld even absent the protected communication, then the complaint is substantiated. Conversely, if the evidence establishes that it would have been taken, threatened, or withheld absent the protected communication, then the complaint is not substantiated. Below, we analyze each of the elements.

In investigating an allegation of whistleblower reprisal, the following questions must be addressed:

- A. Did the military member make or prepare to make a communication protected by statute?
- B. Was an unfavorable personnel action taken or threatened, or was a favorable action withheld or threatened to be withheld following the protected communication?
- C. Did the official(s) responsible for taking, withholding, or threatening the personnel action know about the member's protected communication?
- D. Does a preponderance of the evidence establish that the personnel action would have been taken, withheld, or threatened if the member had not made the protected communication?

## FINDINGS AND ANALYSIS

### A. Did the Complainant make or prepare to make a protected communication protected by statute?

Yes. (b)(6), (b)(7)(C) made or was perceived to have made the following protected communications:

**PC-1: On 27 February 2017,** (b)(6), (b)(7)(C) provided a written statement to (b)(6), (b)(7)(C) (b)(6), (b)(7)(C), (b)(6), (b)(7)(C) USS HUE CITY as part of the preliminary inquiry. (b)(6), (b)(7)(C) stated that (b)(6), (b)(7)(C) favored females, the Enlisted Surface Warfare Specialist (ESWS) program was being run poorly, and that (b)(6), (b)(7)(C) had lost (b)(6), (b)(7)(C). (Tab 01, 09)

**Disposition:** On 3 March 2017, (b)(6), (b)(7)(C) provided (b)(6), (b)(7)(C) completed Preliminary Inquiry (PI) to (b)(6), (b)(7)(C). (b)(6), (b)(7)(C) stated four of the six statements taken as part of the PI provided a positive view of (b)(6), (b)(7)(C) leadership (b)(6), (b)(7)(C) and praised (b)(6), (b)(7)(C) for fairness and non-discriminatory nature. (b)(6), (b)(7)(C) noted that one negative statement came from an African American male that supported the allegations made in the anonymous IG complaint. (b)(6), (b)(7)(C) concluded that no further investigation was warranted but recommended a thorough review of the command collateral duty assignments, to codify a procedure for enlisted evaluation ranking boards, conduct regular CPO 365 training sessions and pursue team building opportunities within the Chiefs' Mess. On 10 March 2017, (b)(6), (b)(7)(C) provided an addendum to (b)(6), (b)(7)(C) 3 March Preliminary Inquiry after reviewing the Command Collateral Duty List, the POAMs for the 2016 periodic E5, E6, and E7/E8 evaluations, and the ship's calendar for scheduled CPO 365 training. (Tab 09)

On 14 March 2017, (b)(6), (b)(7)(C) provided a response to CNSL IG via Commander, Carrier Strike Group TWO (CCSG-2) regarding the allegations made in NIGHTS Case 201700452. (b)(6), (b)(7)(C) stated, *"Based upon the PIO's investigation and my review, I assess that (b)(6), (b)(7)(C) operates fairly and provides sufficient opportunity for CPO development. (b)(6), (b)(7)(C) has my full trust and confidence to perform (b)(6), (b)(7)(C) duties."* (Tab 09)

On 17 March 2017, (b)(6), (b)(7)(C), Commander, Carrier Strike Group TWO endorsed the USS Hue City's response. (b)(6), (b)(7)(C) stated, *"After careful consideration, I concur with the Commanding Officer that no further action is required."* (Tab 11)

**PC-2: On 28 February 2017,** during an all Chief's meeting in the Chief's Mess, (b)(6), (b)(7)(C) (b)(6), (b)(7)(C) alleged that (b)(6), (b)(7)(C) told (b)(6), (b)(7)(C) that (b)(6), (b)(7)(C) was the one who had submitted complaints against (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) was going to continue until (b)(6), (b)(7)(C) was fired. (Tab 01, 05, 10)

**Disposition:** There is no documentary or testimonial evidence that any actions were taken as a result of (b)(6), (b)(7)(C) assertion that (b)(6), (b)(7)(C) was in fact making anonymous complaints against (b)(6), (b)(7)(C).

**PC-3:** On 1 March 2017, (b)(6), (b)(7)(C) spoke with (b)(6), (b)(7)(C) and complained that as the ship's (b)(6), (b)(7)(C), (b)(6), (b)(7)(C) shouldn't make allegations against (b)(6), (b)(7)(C) like (b)(6), (b)(7)(C) did in the "All Chief's Meeting" on 28 February 2017. During that meeting, (b)(6), (b)(7)(C) had alleged that (b)(6), (b)(7)(C) was submitting complaints against (b)(6), (b)(7)(C). (Tab 01, 05)

**Disposition:** (b)(6), (b)(7)(C) confirmed that (b)(6), (b)(7)(C) spoke with (b)(6), (b)(7)(C) and discussed the issues raised by (b)(6), (b)(7)(C) about the conduct of (b)(6), (b)(7)(C). (b)(6), (b)(7)(C) also confirmed that after their conversation, (b)(6), (b)(7)(C) went and spoke with (b)(6), (b)(7)(C). (b)(6), (b)(7)(C) stated that (b)(6), (b)(7)(C) explained that (b)(6), (b)(7)(C) spoke to (b)(6), (b)(7)(C) and told (b)(6), (b)(7)(C) that (b)(6), (b)(7)(C) needed both (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) to be able to work together professionally. (Tab 05)

**PC-4:** On 2 March 2017, according to (b)(6), (b)(7)(C) testimony, (b)(6), (b)(7)(C) spoke with (b)(6), (b)(7)(C) and complained that as the ship's (b)(6), (b)(7)(C), (b)(6), (b)(7)(C) shouldn't make allegations against (b)(6), (b)(7)(C) like (b)(6), (b)(7)(C) did in the "All Chief's Meeting" on 28 February 2017. During that meeting, (b)(6), (b)(7)(C) had alleged that (b)(6), (b)(7)(C) was submitting complaints against (b)(6), (b)(7)(C). (Tab 01)

**Disposition:** There is no documentary or testimonial evidence that any actions were taken as a result of (b)(6), (b)(7)(C) alleged conversation with (b)(6), (b)(7)(C). (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) do not recall this conversation taking place. (Tab 05, 17)

**PC-5:** On 25 April 2017, CNSL IG received a hotline complaint from (b)(6), (b)(7)(C). In the complaint, (b)(6), (b)(7)(C) discussed the 28 February 2017 Chief's Mess meeting where (b)(6), (b)(7)(C) alleged that (b)(6), (b)(7)(C) was making IG complaints against (b)(6), (b)(7)(C). (b)(6), (b)(7)(C) also explained that (b)(6), (b)(7)(C) had raised (b)(6), (b)(7)(C) concerns with (b)(6), (b)(7)(C) making the allegation against (b)(6), (b)(7)(C) with both (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C). (Tab 28)

**Disposition:** The complaint was entered into NIGHTS under case number 201701451. The case was forwarded to the (b)(6), (b)(7)(C), USS HUE CITY as an "Information Only". CNSL IG closed the case on 26 April 2017. (b)(6), (b)(7)(C) took no action regarding the forwarded complaint as the issues raised had been addressed in earlier inquiries and CNSL IG considered the matter closed. (Tab 28)

**PC-6:** On 27 April 2017, (b)(6), (b)(7)(C) submitted (b)(6), (b)(7)(C) Appeal of Non-Judicial Punishment to (b)(6), (b)(7)(C) via (b)(6), (b)(7)(C). (b)(6), (b)(7)(C) stated (b)(6), (b)(7)(C) felt the punishment awarded was disproportionate and unjust. (b)(6), (b)(7)(C) also alleged the charges against (b)(6), (b)(7)(C) stemmed from the fact the (b)(6), (b)(7)(C), (b)(6), (b)(7)(C), and



(b)(6), (b)(7)(C) believed (b)(6), (b)(7)(C) had submitted IG complaints against (b)(6), (b)(7)(C) (b)(6), (b)(7)(C) (Tab 29)

**Disposition:** On 12 May 2017, (b)(6), (b)(7)(C) endorsed (b)(6), (b)(7)(C) Appeal of Non-Judicial Punishment. (b)(6), (b)(7)(C) forwarded the package to Commander, Carrier Strike Group TWO with the recommendation that the appeal be denied. On 23 May 2017, (b)(6), (b)(7)(C) denied (b)(6), (b)(7)(C) NJP appeal. (b)(6), (b)(7)(C) found the punishment awarded was both just and proportional (Tab 32, 40)

**PC-7:** On 17 May 2017, (b)(6), (b)(7)(C) submitted a reprisal complaint to the USFF IG hotline. (b)(6), (b)(7)(C) stated that (b)(6), (b)(7)(C) was taken to mast and found guilty of violating UCMJ Article 92 as an act of reprisal. (b)(6), (b)(7)(C) stated (b)(6), (b)(7)(C) believed (b)(6), (b)(7)(C) was the command member who had submitted complaints against (b)(6), (b)(7)(C). (Tab 33)

**Disposition:** The complaint was entered in NIGHTS and assigned case number 201701753. The reprisal notification was submitted to NAVINSGEN and the case was tasked for preliminary inquiry.

**B. Was an unfavorable personnel action taken or threatened against the Complainant, or was a favorable action withheld or threatened to be withheld from the Complainant following the protected communications?**

Yes. (b)(6), (b)(7)(C) claims the following as unfavorable personnel actions:

**UPA 1: Found guilty of violating UCMJ Article 92**

On 24 April 2017, (b)(6), (b)(7)(C) found (b)(6), (b)(7)(C) guilty of violating UCMJ Article 92 at non-judicial punishment and awarded (b)(6), (b)(7)(C) a Punitive Letter of Reprimand. (08)

**UPA 2: Administrative Separation Processing (ADSEP) Notification**

On 3 June 2017, (b)(6), (b)(7)(C) issued (b)(6), (b)(7)(C) Administrative Separation Processing (ADSEP) Notification. On 31 October 2017, the Administrative Board voted 3-0 to retain (b)(6), (b)(7)(C) (Tab 41)

**UPA 3: Request Detached for Cause**

On 20 June 2017, (b)(6), (b)(7)(C) requested (b)(6), (b)(7)(C) be detached for cause by reason of misconduct. On 2 October 2017, Deputy Chief of Naval Personnel approved the detachment for cause request in the case of (b)(6), (b)(7)(C). (Tab 39)

**C. Did the responsible management official(s) have knowledge of Complainant's protected communication(s), or knowledge Complainant was making or preparing to make protected communications?**

Yes. (b)(6), (b)(7)(C) 31 May 2017 interview, (b)(6), (b)(7)(C) confirmed that (b)(6), (b)(7)(C) was aware of the fact that (b)(6), (b)(7)(C) had made a statement as part of the command preliminary inquiry into allegations against (b)(6), (b)(7)(C) (PC1). (b)(6), (b)(7)(C) also knew that (b)(6), (b)(7)(C) had accused (b)(6), (b)(7)(C) of being the crewmember who was making allegations against (b)(6), (b)(7)(C) (PC2), that (b)(6), (b)(7)(C) had complained to (b)(6), (b)(7)(C) that as the ship's (b)(6), (b)(7)(C) should not be making allegations against (b)(6), (b)(7)(C) (PC3), and (b)(7)(C) became aware of the fact that (b)(6), (b)(7)(C) had filed a reprisal complaint on 31 May 2017 during (b)(6), (b)(7)(C) subject interview (PC5). (b)(6), (b)(7)(C) denied speaking with (b)(6), (b)(7)(C) on or about 2 March 2017 regarding (b)(6), (b)(7)(C) concerns with how (b)(6), (b)(7)(C) was fulfilling (b)(6), (b)(7)(C) role as (b)(6), (b)(7)(C) (PC4). (Tab 17)

Yes. (b)(6), (b)(7)(C) 1 June 2017 interview, (b)(6), (b)(7)(C) confirmed that (b)(6), (b)(7)(C) was aware of the fact that (b)(6), (b)(7)(C) had made a statement as part of the command preliminary inquiry into allegations against (b)(6), (b)(7)(C) (PC1). (b)(6), (b)(7)(C) also knew that (b)(6), (b)(7)(C) had accused (b)(6), (b)(7)(C) of being the crewmember who was making allegations against (b)(6), (b)(7)(C) (PC2), and (b)(6), (b)(7)(C) became aware of the fact that (b)(6), (b)(7)(C) had filed a reprisal complaint on 1 May 2017 during (b)(6), (b)(7)(C) subject interview (PC5). (b)(6), (b)(7)(C) denied having any knowledge of (b)(6), (b)(7)(C) raising concerns with (b)(6), (b)(7)(C) or (b)(6), (b)(7)(C) regarding (b)(6), (b)(7)(C) performance (b)(6), (b)(7)(C) (PC3-4). (Tab 42)

Yes. (b)(6), (b)(7)(C) 1 June 2017 interview, (b)(6), (b)(7)(C) stated that (b)(6), (b)(7)(C) knew (b)(6), (b)(7)(C) had accused (b)(6), (b)(7)(C) of being the crewmember who was making allegations against (b)(6), (b)(7)(C) (PC2), and confirmed that (b)(6), (b)(7)(C) had complained (b)(6), (b)(7)(C) that as (b)(6), (b)(7)(C) should not be making allegations against (b)(6), (b)(7)(C) (PC3), and (b)(6), (b)(7)(C) became aware of the fact that (b)(6), (b)(7)(C) had filed a reprisal complaint on 1 June 2017 during (b)(6), (b)(7)(C) subject interview (PC5). (b)(6), (b)(7)(C) denied having knowledge of (b)(6), (b)(7)(C) making a statement as part of the command preliminary inquiry (PC1) or of (b)(6), (b)(7)(C) speaking with (b)(6), (b)(7)(C) regarding (b)(6), (b)(7)(C) performance as (b)(6), (b)(7)(C) (PC4). (Tab 05)

**D. Does a preponderance of evidence establish the personnel action would have been taken if the member had not made the protected communication?**

Yes. A preponderance of the evidence establishes (b)(6), (b)(7)(C) would have taken the personnel actions against (b)(6), (b)(7)(C) absent (b)(6), (b)(7)(C) protected communications.

**24 April 2017 – Found guilty of violating UCMJ Article 92**

**Allegation:** that on 24 April 2017, (b)(6), (b)(7)(C) found (b)(6), (b)(7)(C) guilty of violating UCMJ Article 92 at non-judicial punishment (NJP) and awarded (b)(6), (b)(7)(C) Punitive Letter of Reprimand, in reprisal for (b)(6), (b)(7)(C) protected communications in violation of Title 10, United States Code, Section (b)(6), (b)(7)(C)



1034 (10 U.S.C. §1034), Department of Defense Directive (DoDD) 7050.06, and Secretary of the Navy Instruction (SECNAVINST) 5370.7D, which prohibit reprisals against a military member for making or preparing to make or being perceived as having made or preparing to make a protected communication.

### Analysis:

Between 28 November 2016 and 24 April 2017, five anonymous complaints had been submitted to NAVINSGEN, USFF IG, and CNSL IG making various allegations of discrimination, disparate treatment, and other command climate issues regarding USS HUE CITY. The complaints also made allegations of discrimination against (b)(6), (b)(7)(C) and that (b)(6), (b)(7)(C) had lost control of the Chief's Mess. The complaints were forward to the USS HUE CITY as command issues. The command conducted preliminary inquiries into the allegations and provided responses to CNSL IG via CSG-2. (Tab 03, 02, 04, 09, 11, 13, 14, 15)

On 7 February 2017, USS HUE CITY made a port visit to Klaipeda, Lithuania. In (b)(6), (b)(7)(C) 23 May 2017 clarification interview, (b)(6), (b)(7)(C) confirmed (b)(6), (b)(7)(C) got a hotel room during the port visit and that (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) had overnight liberty and that on the night in question (b)(6), (b)(7)(C) met up in (b)(6), (b)(7)(C) hotel room and the five members went to the local Irish Bar. In (b)(6), (b)(7)(C) testimony, (b)(6), (b)(7)(C) stated that (b)(6), (b)(7)(C) requested the key to the room while the group was at the bar and (b)(6), (b)(7)(C) gave it to (b)(6), (b)(7)(C). (b)(6), (b)(7)(C) confirmed that the five USS HUE CITY Chiefs (b)(6), (b)(7)(C), (b)(6), (b)(7)(C), (b)(6), (b)(7)(C), (b)(6), (b)(7)(C), and (b)(6), (b)(7)(C) ended up back in (b)(6), (b)(7)(C) hotel prior to heading back to the ship. (Tab 05, 06, 07, 08)

On 27 February 2017, (b)(6), (b)(7)(C), (b)(6), (b)(7)(C), USS HUE CITY provided a written statement to (b)(6), (b)(7)(C). (b)(6), (b)(7)(C) stated that (b)(6), (b)(7)(C) favored females, the ESWS program was being run poorly, and that (b)(6), (b)(7)(C) had lost (b)(6), (b)(7)(C). (Tab 01, 09) PC1

On 28 February 2017, during an all Chief's meeting in the Chief's Mess, (b)(6), (b)(7)(C), (b)(6), (b)(7)(C), (b)(6), (b)(7)(C) accused (b)(6), (b)(7)(C) of being the individual who had been submitting IG complaints against (b)(6), (b)(7)(C). On 1 March 2017, (b)(6), (b)(7)(C) spoke with (b)(6), (b)(7)(C) and complained that as (b)(6), (b)(7)(C), (b)(6), (b)(7)(C), shouldn't make allegations against (b)(6), (b)(7)(C) like (b)(6), (b)(7)(C) did in the "All Chief's Meeting" on 28 February 2017. (Tab 01, 05, 10) PC2, PC3

On 19 April 2017, (b)(6), (b)(7)(C) found a note in the USS HUE CITY CO's suggestion box that read, "Ask (b)(6), (b)(7)(C) how many times (b)(6), (b)(7)(C) gave (b)(6), (b)(7)(C) head in (b)(6), (b)(7)(C) office or how many times (b)(6), (b)(7)(C) been to (b)(6), (b)(7)(C) house or (b)(6), (b)(7)(C) who slept with (b)(6), (b)(7)(C) in Estonia." (b)(6), (b)(7)(C) stated that as soon as (b)(6), (b)(7)(C) found the note (b)(6), (b)(7)(C) took it to (b)(6), (b)(7)(C). (Tab 05, 17, 18)



On 20 April 2017, (b)(6), (b)(7)(C) made a voluntary statement to (b)(6), (b)(7)(C) concerning the liberty incident that occurred between (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) during the 7 February 2017 port visit to Klaipeda, Lithuania. (b)(6), (b)(7)(C) said, "Once we all went back to the hotel (b)(6), (b)(7)(C) told us that (b)(6), (b)(7)(C) had sexual relations with (b)(6), (b)(7)(C)." (Tab 20)

On 22 April 2017, the command preferred charges against (b)(6), (b)(7)(C) was charged with violating UCMJ Article 92 (Failure to obey order or regulation). The allegation specification stated that from 7 February 2017 through 19 April 2017 (b)(6), (b)(7)(C) had violated Article 1137 U.S. Navy Regulations by failing to report UCMJ offenses which come under (b)(6), (b)(7)(C) observation; specifically that (b)(6), (b)(7)(C) wrongfully engaged in an unduly familiar relationship with (b)(6), (b)(7)(C) while assigned to the same command. On or about 23 April 2017, (b)(6), (b)(7)(C) conducted XOI into the allegation of failure to report (Art 1137 U.S. Navy Regulations) against (b)(6), (b)(7)(C) regarding the alleged fraternization between (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C). (b)(6), (b)(7)(C) recommended the case proceed to NJP. (Tab 08)

On 24 April 2017, (b)(6), (b)(7)(C) was found guilty of violating UCMJ Article 92 at NJP. (b)(6), (b)(7)(C) was awarded a Punitive Letter of Reprimand. (Tab 08) PA1

#### **Reason for the Personnel Action (PA):**

(b)(6), (b)(7)(C) 31 May 2017 interview. (b)(6), (b)(7)(C) explained that when (b)(6), (b)(7)(C) asked (b)(6), (b)(7)(C) if the allegation that (b)(6), (b)(7)(C) slept with (b)(6), (b)(7)(C) was true, (b)(6), (b)(7)(C) admitted to sleeping with (b)(6), (b)(7)(C) and that (b)(6), (b)(7)(C) had told (b)(6), (b)(7)(C), (b)(6), (b)(7)(C), (b)(6), (b)(7)(C), and (b)(6), (b)(7)(C). All four of the Chief's had been in the hotel room during the discussion. Additionally, (b)(6), (b)(7)(C) stated that (b)(6), (b)(7)(C) also confirmed that (b)(6), (b)(7)(C) had in fact admitted to sleeping with (b)(6), (b)(7)(C) and that all the Chiefs (b)(6), (b)(7)(C), (b)(6), (b)(7)(C), (b)(6), (b)(7)(C), in the hotel room heard what (b)(6), (b)(7)(C) said. (b)(6), (b)(7)(C) also stated the fact that (b)(6), (b)(7)(C) hotel room was where the fraternization occurred, the fact (b)(6), (b)(7)(C) never took any responsibility or showed any remorse, and the fact that (b)(6), (b)(7)(C) was the senior member in the hotel room factored into (b)(6), (b)(7)(C) decision process. (b)(6), (b)(7)(C) explained that based on the preponderance of the evidence (b)(6), (b)(7)(C) believed that (b)(6), (b)(7)(C) had become aware of the fraternization on or about 7 February 2017, that (b)(6), (b)(7)(C) failed to report the fraternization once (b)(6), (b)(7)(C) became aware of it, and that is why (b)(6), (b)(7)(C) found (b)(6), (b)(7)(C) guilty of violating UCMJ Article 92 at NJP and awarded (b)(6), (b)(7)(C) a Punitive Letter of Reprimand. (Tab 17)

#### **Timing Between PCs and the Personnel Action (PA):**

On 24 April 2017, (b)(6), (b)(7)(C) was found guilty at NJP and awarded a Punitive Letter of Reprimand which was 56 days after PC1, 55 days after PC2, 54 days after PC3, and 53 days after PC4. (b)(6), (b)(7)(C) testified that (b)(6), (b)(7)(C) saw (b)(6), (b)(7)(C) statement (PC1) when (b)(6), (b)(7)(C) reviewed and endorsed the command preliminary inquiry on 3 March 2017. (b)(6), (b)(7)(C) explained that (b)(6), (b)(7)(C) became aware of the discussion in the Chief's Mess where (b)(6), (b)(7)(C) alleged that (b)(6), (b)(7)(C) was the individual submitting complaints against (b)(6), (b)(7)(C) (PC2) on or about

28 February 2017. (b)(6), (b)(7)(C) testified that he became aware of (b)(6), (b)(7)(C) conversation with (b)(6), (b)(7)(C) (in which (b)(6), (b)(7)(C) complained that as (b)(6), (b)(7)(C), (b)(6), (b)(7)(C) shouldn't make allegations against (b)(6), (b)(7)(C) (PC3) ) when (b)(6), (b)(7)(C) briefed (b)(6), (b)(7)(C) in the discussion on or about 1 March 2017. (b)(6), (b)(7)(C) stated that (b)(6), (b)(7)(C) did not have a conversation with (b)(6), (b)(7)(C) to discuss (b)(6), (b)(7)(C) concerns with (b)(6), (b)(7)(C) actions (PC4). (Tab 05, 17)

### **Motive on the part of the RMO to reprise:**

(b)(6), (b)(7)(C) stated that they had answered all the taskings related to the submitted IG complaints and that CNSL IG and CSG-2 were happy with the answers they received. (b)(6), (b)(7)(C) also stated that (b)(6), (b)(7)(C) didn't know who had filed the IG complaints and that (b)(6), (b)(7)(C) didn't care. The command provided answers to the ISIC and CNSL IG and continued on. (Tab 04, 09, 11, 17)

(b)(6), (b)(7)(C) testified that (b)(6), (b)(7)(C) PCs or alleged PCs had no bearing on (b)(6), (b)(7)(C) decision to find (b)(6), (b)(7)(C) guilty at NJP and issue (b)(6), (b)(7)(C) a punitive letter of reprimand. Testimony from (b)(6), (b)(7)(C), CSG-2 and (b)(6), (b)(7)(C) ISIC, confirmed that at the time of (b)(6), (b)(7)(C) NJP no negative actions had been taken against (b)(6), (b)(7)(C). (Tab 17)

### **Disparate Treatment:**

(b)(6), (b)(7)(C) testified and a review of the NJP packages confirmed that of the six Chiefs involved in the cases of fraternization identified in the 19 April 2017 note in the CO's Suggestion box (b)(6), (b)(7)(C) took all six to mast. (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) were charged with UCMJ Article 92 (Failure to obey order or regulation) and UCMJ Article 134 (Adultery). (b)(6), (b)(7)(C) (b)(6), (b)(7)(C), (b)(6), (b)(7)(C), and (b)(6), (b)(7)(C) were all charged with UCMJ Article 92 (Failure to obey order or regulation) for failing to report the fraternization. With the exception of (b)(6), (b)(7)(C), all were found guilty at NJP and issued a Punitive Letter of Reprimand. (b)(6), (b)(7)(C) stated that (b)(6), (b)(7)(C) found (b)(6), (b)(7)(C) guilty of violating UCMJ Article 92 for failing to report the fraternization, but issued (b)(6), (b)(7)(C) an oral admonition vice a punitive letter of reprimand. (b)(6), (b)(7)(C) explained that because (b)(6), (b)(7)(C) was up-front and honest with (b)(6), (b)(7)(C) concerning the fraternization incident, cooperated with the ship's investigation, was extremely contrite, and that (b)(6), (b)(7)(C) already had approved retirement papers (b)(6), (b)(7)(C) elected to issue (b)(6), (b)(7)(C) an oral admonition vice a punitive letter of reprimand. When allegations arose that (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) knew about the fraternization between (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C), (b)(6), (b)(7)(C) initiated a preliminary inquiry on 24 April 2017 and assigned (b)(6), (b)(7)(C) as the PIO. (b)(6), (b)(7)(C) completed the inquiry and concluded there was no conclusive evidence that (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) knew of the fraternization and failed to report it. (b)(6), (b)(7)(C) endorsed (b)(6), (b)(7)(C) inquiry and concurred with the findings, took no corrective action, and considered the investigation closed. (Tab 08, 17, 22-25, 26, 43-47)

### **Discussion:**



The preponderance of the evidence establishes that (b)(6), (b)(7)(C) did not find (b)(6), (b)(7)(C) guilty of violating UCMJ Article 92 and award (b)(6), (b)(7)(C) a punitive letter of reprimand in reprisal for (b)(6), (b)(7)(C) protected communications. The evidence indicates (b)(6), (b)(7)(C) based (b)(6), (b)(7)(C) decision on the evidence obtained during the command investigation and (b)(6), (b)(7)(C) belief that (b)(6), (b)(7)(C) knew (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) slept together and failed to report the violation to the chain of command as required by U.S. Navy Regulations Article 1137. Additionally, (b)(6), (b)(7)(C) did not have a motive to reprise against (b)(6), (b)(7)(C) at the time of the personnel action as no unfavorable action had been taken against (b)(6), (b)(7)(C) related to (b)(6), (b)(7)(C) communications. Testimony from (b)(6), (b)(7)(C), (b)(6), (b)(7)(C), CSG-2, (b)(6), (b)(7)(C) ISIC, confirmed that at the time of (b)(6), (b)(7)(C) NJP no negative actions had been taken against (b)(6), (b)(7)(C). (b)(6), (b)(7)(C) issued (b)(6), (b)(7)(C) fitness report on 14 August 2017. A review of (b)(6), (b)(7)(C) fitness report shows no negative consequences from the fraternization incident and IG complaints on HUE CITY. (b)(6), (b)(7)(C) received a "Must Promote" promotion recommendation, 4.71 Trait Average, and was ranked 3 of 6 (b)(6), (b)(7)(C). (b)(6), (b)(7)(C) received the following very positive comments in the narrative section, (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C). (b)(6), (b)(7)(C) The positive fitness report for (b)(6), (b)(7)(C) further validates the fact (b)(6), (b)(7)(C) had not received any negative feedback or repercussions from the IG complaints filed against HUE CITY. (b)(6), (b)(7)(C) was charged with the same allegations, had the same finding, and awarded the same punishment as the other two Chiefs who were alleged to have known about the fraternization, failed to report it to the chain of command, and did not admit any culpability during the NJP process.

Therefore, the allegation that on 24 April 2017, (b)(6), (b)(7)(C) found (b)(6), (b)(7)(C) guilty of violating UCMJ Article 92 at non-judicial punishment (NJP) and awarded (b)(6), (b)(7)(C) a Punitive Letter of Reprimand, in reprisal for (b)(6), (b)(7)(C) protected communications in violation of Title 10 U.S.C. §1034, DoDD 7050.06, and SECNAVINST 5370.7D is **not-substantiated**.

Yes. A preponderance of the evidence establishes (b)(6), (b)(7)(C) would have influenced the personnel actions against (b)(6), (b)(7)(C) absent (b)(6), (b)(7)(C) protected communications.

**Allegation:** that on or about 24 April 2017, (b)(6), (b)(7)(C) influenced (b)(6), (b)(7)(C) decision to find (b)(6), (b)(7)(C) guilty of violating UCMJ Article 92 at non-judicial punishment (NJP), and awarded (b)(6), (b)(7)(C) a Punitive Letter of Reprimand, in reprisal for (b)(6), (b)(7)(C) protected communications in violation of Title 10, United States Code, Section 1034 (10 U.S.C. §1034), Department of Defense Directive (DoDD) 7050.06, and Secretary of the Navy Instruction (SECNAVINST) 5370.7D, which prohibit reprisals against a military member for making or preparing to make or being perceived as having made or preparing to make a protected communication.

#### **Reason for the Personnel Action (PA):**

(b)(6), (b)(7)(C) explained that in any disciplinary case, (b)(6), (b)(7)(C), "fact finding" is (b)(6), (b)(7)(C) job. (b)(6), (b)(7)(C) further explained that in the cases of the six Chief's associated with the hotel room incident, (b)(6), (b)(7)(C)

went above and beyond trying to ascertain what exactly went on in the hotel room when (b)(6), (b)(7)(C) discussed that (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) had a sexual encounter in (b)(6), (b)(7)(C) hotel room earlier that evening, to include reenacting the scene. (b)(6), (b)(7)(C) explained that after speaking with all the parties involved, it was (b)(6), (b)(7)(C) conclusion that there was no doubt that (b)(6), (b)(7)(C) had heard (b)(6), (b)(7)(C) speaking of (b)(6), (b)(7)(C) sexual encounter with (b)(6), (b)(7)(C). (b)(6), (b)(7)(C) stated that as a result (b)(6), (b)(7)(C) recommended (b)(6), (b)(7)(C) go to NJP. (Tab 42)

### **Timing Between PCs and the Personnel Action (PA):**

On 24 April 2017, (b)(6), (b)(7)(C) was found guilty at NJP and awarded a Punitive Letter of Reprimand which was 56 days after PC1, 55 days after PC2, 54 days after PC3, and 53 days after PC4. (b)(6), (b)(7)(C) testified that (b)(6), (b)(7)(C) saw (b)(6), (b)(7)(C) statement (PC1) when (b)(6), (b)(7)(C) reviewed it prior to it being sent to (b)(6), (b)(7)(C) on 3 March 2017. (b)(6), (b)(7)(C) explained that (b)(6), (b)(7)(C) became aware of the discussion in the Chief's Mess where (b)(6), (b)(7)(C) alleged that (b)(6), (b)(7)(C) was the individual submitting IG complaints against (b)(6), (b)(7)(C) (PC2) on or about 28 February 2017. (b)(6), (b)(7)(C) testified that (b)(6), (b)(7)(C) was not aware of (b)(6), (b)(7)(C) conversation with (b)(6), (b)(7)(C) in which (b)(6), (b)(7)(C) complained that (b)(6), (b)(7)(C), (b)(6), (b)(7)(C) shouldn't make allegations against (b)(6), (b)(7)(C) (PC3). (b)(6), (b)(7)(C) stated (b)(6), (b)(7)(C) had no knowledge of a conversation between (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) to discuss (b)(6), (b)(7)(C) concerns with (b)(6), (b)(7)(C) actions (PC4). (Tab 42)

### **Motive on the part of the RMO to reprise:**

While the numerous complaints brought unwanted attention to the USS HUE CITY, the CSG-2 Chief of Staff confirmed that no negative actions were taken against (b)(6), (b)(7)(C) by (b)(6), (b)(7)(C) SIC, and (b)(6), (b)(7)(C) confirmed no negative actions had been taken against (b)(6), (b)(7)(C) as a result of the IG complaints. (b)(6), (b)(7)(C) stated that they had answered all the taskings related to the submitted IG complaints, and the CNSL IG and CSG-2 were happy with the answers they received. The command provided answers to the ISIC and CNSL IG and continued on. (Tab 04, 09, 11, 17, 42)

(b)(6), (b)(7)(C) testified that (b)(6), (b)(7)(C) PCs or alleged PCs had no bearing on (b)(6), (b)(7)(C) decision to recommend (b)(6), (b)(7)(C) case continue to NJP when (b)(6), (b)(7)(C) was found guilty of violating UCMJ Article 92 and issued a punitive letter of reprimand. (Tab 17, 42)

### **Disparate Treatment:**

(b)(6), (b)(7)(C) testified that (b)(6), (b)(7)(C) followed the exact same process for each Chief Petty Officer case during (b)(6), (b)(7)(C) fact findings and XOI, which recommended that all six Chief Petty Officer cases should proceed to NJP. Specifically, (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) were charged with UCMJ Article 92 (Failure to obey order or regulation) and UCMJ Article 134 (Adultery); and (b)(6), (b)(7)(C), (b)(6), (b)(7)(C), (b)(6), (b)(7)(C), and (b)(6), (b)(7)(C) were all charged with UCMJ Article 92 (Failure to obey order or regulation) for failing to report the fraternization. (Tab 22-25, 42)

**Discussion:**

The preponderance of the evidence establishes that (b)(6), (b)(7)(C) did not influence (b)(6), (b)(7)(C) decision to find (b)(6), (b)(7)(C) guilty of violating UCMJ Article 92 and award (b)(6), (b)(7)(C) a punitive letter of reprimand in reprisal for (b)(6), (b)(7)(C) protected communications. (b)(6), (b)(7)(C) received the same recommendation from XO1 as the other three Chiefs who were alleged to have known about the fraternization and failed to report it to the chain of command. The evidence indicates (b)(6), (b)(7)(C) based (b)(6), (b)(7)(C) decision to recommend NJP on the evidence obtained during (b)(6), (b)(7)(C) process and (b)(6), (b)(7)(C) belief that (b)(6), (b)(7)(C) knew (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) slept together and failed to report the violation to the chain of command as required by U.S. Navy Regulations Article 1137. Additionally, (b)(6), (b)(7)(C) did not have a motive to reprise against (b)(6), (b)(7)(C) at the time of the personnel action as no unfavorable action had been taken against (b)(6), (b)(7)(C) or the command related to (b)(6), (b)(7)(C) communications. A review of (b)(6), (b)(7)(C) fitness report shows no negative consequences from the fraternization incident and IG complaints on HUE CITY. (b)(6), (b)(7)(C) issued (b)(6), (b)(7)(C) (b)(6), (b)(7)(C) fitness report on 24 May 2017. (b)(6), (b)(7)(C) received an "Early Promote" promotion recommendation, 5.00 Trait Average, and was ranked 1 of 1. (b)(6), (b)(7)(C) received the following very positive comments in the narrative section, (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C), select for (b)(6), (b)(7)(C) now."

Therefore, the allegation that on or about 24 April 2017, (b)(6), (b)(7)(C) influenced (b)(6), (b)(7)(C) decision to find (b)(6), (b)(7)(C) guilty of violating UCMJ Article 92 at non-judicial punishment (NJP) and award (b)(6), (b)(7)(C) a Punitive Letter of Reprimand, in reprisal for (b)(6), (b)(7)(C) protected communications in violation of Title 10 U.S.C. §1034, DoDD 7050.06, and SECNAVINST 5370.7D is **not-substantiated**.

Yes. A preponderance of the evidence establishes (b)(6), (b)(7)(C) would have influenced the personnel actions against (b)(6), (b)(7)(C) absent (b)(6), (b)(7)(C) protected communications.

**Allegation:** That on or about 24 April 2017, (b)(6), (b)(7)(C) influenced (b)(6), (b)(7)(C) decision to find (b)(6), (b)(7)(C) guilty of violating UCMJ Article 92 at non-judicial punishment (NJP), and award (b)(6), (b)(7)(C) a Punitive Letter of Reprimand, in reprisal for (b)(6), (b)(7)(C) protected communications in violation of Title 10, United States Code, Section 1034 (10 U.S.C. §1034), Department of Defense Directive (DoDD) 7050.06, and Secretary of the Navy Instruction (SECNAVINST) 5370.7D, which prohibit reprisals against a military member for making or preparing to make or being perceived as having made or preparing to make a protected communication.

**Reason for the Personnel Action (PA):**

(b)(6), (b)(7)(C) 1 June 2017 interview, (b)(6), (b)(7)(C) stated that after (b)(6), (b)(7)(C) viewed the note that was placed in the CO's suggestion box which implicated members of the Chief's Mess as having fraternized with junior sailors, (b)(6), (b)(7)(C) recommendation to (b)(6), (b)(7)(C) was, "we gotta investigate, get to the bottom of who really knew what, who was really there, who wasn't there." (b)(6), (b)(7)(C)



(b)(6), (b)(7)(C) explained that after XO1, when (b)(6), (b)(7)(C) determined (b)(6), (b)(7)(C), (b)(6), (b)(7)(C), (b)(6), (b)(7)(C), and (b)(6), (b)(7)(C) knew about the fraternization but didn't report it, (b)(6), (b)(7)(C) supported moving forward with the charges against (b)(6), (b)(7)(C) and the rest of the Chiefs involved. (b)(6), (b)(7)(C) explained, *"We had to do something because, again, junior sailors look at that Chief's Mess and if we can't handle our own, I can't go down to the junior sailors and say 'hey, you're not holding each other accountable. We gotta be the example setters.'" (Tab 05)*

#### **Timing Between PCs and the Personnel Action (PA):**

On 24 April 2017, (b)(6), (b)(7)(C) was found guilty at NJP and awarded a Punitive Letter of Reprimand which was 56 days after PC1, 55 days after PC2, 54 days after PC3, and 53 days after PC4. (b)(6), (b)(7)(C) testified that (b)(6), (b)(7)(C) did not know (b)(6), (b)(7)(C) provided a statement (PC1) as part of a command preliminary inquiry. (b)(6), (b)(7)(C) confirmed (b)(6), (b)(7)(C) was present for the discussion in the Chief's Mess where (b)(6), (b)(7)(C) alleged that (b)(6), (b)(7)(C) was the individual submitting complaints against (b)(6), (b)(7)(C) (PC2) on 28 February 2017. (b)(6), (b)(7)(C) confirmed (b)(6), (b)(7)(C) conversation with (b)(6), (b)(7)(C) in which (b)(6), (b)(7)(C) complained that (b)(6), (b)(7)(C) shouldn't make allegations against (b)(6), (b)(7)(C) (PC3). (b)(6), (b)(7)(C) stated (b)(6), (b)(7)(C) had no knowledge of a conversation between (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) to discuss (b)(6), (b)(7)(C) concerns with (b)(6), (b)(7)(C) actions (PC4). (Tab 05)

#### **Motive on the part of the RMO to reprise:**

The fact that some of the anonymous complaints submitted made specific allegations of favoritism against (b)(6), (b)(7)(C) and questioned (b)(6), (b)(7)(C) as a (b)(6), (b)(7)(C) would be a possible motive to reprise. Additionally, there was a perception held by some on the ship that (b)(6), (b)(7)(C) was submitting the IG complaints against (b)(6), (b)(7)(C). The CSG-2 Chief of Staff confirmed that no negative actions have been taken against (b)(6), (b)(7)(C) by (b)(6), (b)(7)(C) SIC and (b)(6), (b)(7)(C) confirmed no negative actions had been taken against (b)(6), (b)(7)(C) as a result of the IG complaints. (b)(6), (b)(7)(C) stated that they had answered all the taskings related to the IG complaints submitted and the CNSL IG and CSG-2 were happy with the answers they received. The command provided answers to the ISIC and CNSL IG and continued on. In those responses, (b)(6), (b)(7)(C) continued to assert (b)(6), (b)(7)(C) confidence in (b)(6), (b)(7)(C) abilities and performance. In (b)(6), (b)(7)(C) 4 March 2017 response to CNSL IG via (b)(6), (b)(7)(C) regarding the allegations made in NIGHTS Case 201700452, (b)(6), (b)(7)(C) stated, *"Based upon the PIO's investigation and my review, I assess that (b)(6), (b)(7)(C) operates fairly and provides sufficient opportunity for CPO development. (b)(6), (b)(7)(C) has my full trust and confidence to perform (b)(6), (b)(7)(C) duties."* (b)(6), (b)(7)(C) testified that (b)(6), (b)(7)(C) PCs or alleged PCs had no bearing on (b)(6), (b)(7)(C) decision to recommend (b)(6), (b)(7)(C) case continued to NJP where (b)(6), (b)(7)(C) was found guilty of violating UCMJ Article 92 and issued a punitive letter of reprimand. (Tab 04, 05, 09, 11, 17)

#### **Disparate Treatment:**

(b)(6), (b)(7)(C) testified that (b)(6), (b)(7)(C) made the exact same recommendation for how to handle the allegations of fraternization and the failure to report against all six of the Chiefs, (b)(6), (b)(7)(C) explained that (b)(6), (b)(7)(C) told (b)(6), (b)(7)(C) “we gotta investigate, get to the bottom of who really knew what, who was really there, who wasn’t there.” (b)(6), (b)(7)(C) explained that (b)(6), (b)(7)(C) had the discussion on how to proceed with the cases against the Chiefs involved and that (b)(6), (b)(7)(C) supported the cases going to XOJ and NJP. (Tab 05)

### Discussion:

The preponderance of the evidence establishes that (b)(6), (b)(7)(C) did not influence (b)(6), (b)(7)(C) decision to find (b)(6), (b)(7)(C) guilty of violating UCMJ Article 92 and award (b)(6), (b)(7)(C) a punitive letter of reprimand in reprisal for (b)(6), (b)(7)(C) protected communications. (b)(6), (b)(7)(C) received the same recommendation for XOJ and NJP from (b)(6), (b)(7)(C) as the other three Chiefs who were alleged to have known about the fraternization and failed to report it to the chain of command. The evidence indicates (b)(6), (b)(7)(C) based (b)(6), (b)(7)(C) decision to recommend XOJ and NJP on the evidence obtained during the command investigation and (b)(6), (b)(7)(C) belief that (b)(6), (b)(7)(C) knew (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) slept together and failed to report the violation to the chain of command as required by U.S. Navy Regulations Article 1137. A review of (b)(6), (b)(7)(C) Evaluation shows no negative consequences from the fraternization incident and IG complaints on HUE CITY. (b)(6), (b)(7)(C) issued (b)(6), (b)(7)(C) Evaluation 10 May 2017. (b)(6), (b)(7)(C) received an “Early Promote” promotion recommendation, (b)(6), (b)(7)(C) received the (b)(6), (b)(7)(C) (b)(6), (b)(7)(C) .”

Therefore, the allegation that on or about 24 April 2017, (b)(6), (b)(7)(C) influenced (b)(6), (b)(7)(C) to find (b)(6), (b)(7)(C) guilty of violating UCMJ Article 92 at non-judicial punishment (NJP) and award (b)(6), (b)(7)(C) a Punitive Letter of Reprimand, in reprisal for (b)(6), (b)(7)(C) protected communications in violation of Title 10 U.S.C. §1034, DoDD 7050.06, and SECNAVINST 5370.7D is not-substantiated.

### On 3 June 2017- Issued Administrative Separation Processing Notification

**Allegation:** that on 3 June 2017, (b)(6), (b)(7)(C) issued (b)(6), (b)(7)(C) Administrative Separation Processing (ADSEP) Notification in reprisal for (b)(6), (b)(7)(C) protected communications in violation of 10 U.S.C. §1034, DoDD 7050.06 and SECNAVINST 5370.7D, which prohibit reprisals against a military member for making or preparing to make or being perceived as having made or preparing to make a protected communication.

### **Analysis:**



On 27 April 2017, (b)(6), (b)(7)(C) submitted (b)(6), (b)(7)(C) Appeal of Non-Judicial Punishment to (b)(6), (b)(7)(C). (b)(6), (b)(7)(C) stated (b)(7)(C) felt the punishment awarded was disproportionate and unjust. (Tab 29)

On 12 May 2017, (b)(6), (b)(7)(C) endorsed (b)(6), (b)(7)(C) Appeal of Non-Judicial Punishment. (b)(6), (b)(7)(C) forwarded the package to (b)(6), (b)(7)(C) with the recommendation that the appeal be denied. (Tab 32)

On 17 May 2017, (b)(6), (b)(7)(C) submitted a reprisal complaint to the USFF IG hotline. (b)(6), (b)(7)(C) stated that (b)(6), (b)(7)(C) was taken to mast and found guilty of violating UCMJ Article 92 as an act of reprisal. (b)(6), (b)(7)(C) stated (b)(6), (b)(7)(C) believed (b)(6), (b)(7)(C) was the command member who had submitted complaints against (b)(6), (b)(7)(C). (Tab 33) PC5

On 23 May 2017, (b)(6), (b)(7)(C) Commander, Carrier Strike Group TWO denied (b)(6), (b)(7)(C) NJP appeal. (b)(6), (b)(7)(C) found the punishment awarded was both just and proportional. (Tab 40)

On 3 June 2017, (b)(6), (b)(7)(C) issued (b)(6), (b)(7)(C) Administrative Separation Processing Notification. Commission of a serious offense as evidenced by violation of UCMJ Article 92 (Failure to obey order or regulation) is the reason listed for the administrative separation. (b)(6), (b)(7)(C) requested an administrative board and completed (b)(6), (b)(7)(C) response to the notice on 8 June 2017. (Tab 34) PA2

#### **Reason for the Personnel Action (PA):**

(b)(6), (b)(7)(C) 31 May 2017 interview, (b)(6), (b)(7)(C) stated that on 24 April 2017 (b)(6), (b)(7)(C) found (b)(6), (b)(7)(C) guilty of violating UCMJ Article 92 at NJP and awarded (b)(6), (b)(7)(C) a Punitive Letter of Reprimand. (b)(6), (b)(7)(C) further explained that it was (b)(6), (b)(7)(C) intention to pursue ADSEP and DFC processing for (b)(6), (b)(7)(C) when (b)(6), (b)(7)(C) made (b)(6), (b)(7)(C) determination at NJP, but due to administrative requirements (b)(6), (b)(7)(C) had to wait until the NJP appeal process was complete before initiating ADSEP and DFC. On 27 April 2017, (b)(6), (b)(7)(C) submitted (b)(6), (b)(7)(C) JP appeal to Commander, Carrier Strike Group TWO. On 23 May 2017, (b)(6), (b)(7)(C) Commander, Carrier Strike Group TWO denied (b)(6), (b)(7)(C) NJP appeal. When asked why (b)(6), (b)(7)(C) was pursuing ADSEP and DFC against (b)(6), (b)(7)(C) (b)(6), (b)(7)(C) stated, "So I can't – you know, my reasoning here, I can't have these guys on my ship like this. I get a letter of reprimand, I cannot have (b)(6), (b)(7)(C) onboard as a Departmental LCPO, and trust (b)(6), (b)(7)(C) dealing with sailors in sticky situations like this with the Chief's Mess." (b)(6), (b)(7)(C) further stated, "I hate hypocrisy. These guys all have key leadership positions. You know, it takes away my good order and discipline, and so there's no way these guys would stick around on my ship after this. I couldn't trust them." (Tab 17)

#### **Timing Between PCs and the Personnel Action (PA):**



On 3 June 2017, (b)(6), (b)(7)(C) was issued Administrative Separation Processing Notification which was 96 days after PC1, 95 days after PC2, 94 days after PC3, and 93 days after PC4. (b)(6), (b)(7)(C) issued the Administrative Separation Processing Notification 11 days after (b)(6), (b)(7)(C) NJP appeal was denied by (b)(6), (b)(7)(C) (23 May 2017) which completed (b)(6), (b)(7)(C) NJP process. (b)(6), (b)(7)(C) testified that (b)(6), (b)(7)(C) saw (b)(6), (b)(7)(C) statement (PC1) when (b)(6), (b)(7)(C) reviewed and endorsed the command preliminary inquiry on 3 March 2017. (b)(6), (b)(7)(C) explained that (b)(6), (b)(7)(C) became aware of the discussion in the Chief's Mess where (b)(6), (b)(7)(C) alleged that (b)(6), (b)(7)(C) was the individual submitting complaints against (b)(6), (b)(7)(C) (PC2) on or about 28 February 2017. (b)(6), (b)(7)(C) testified that (b)(6), (b)(7)(C) became aware of (b)(6), (b)(7)(C) conversation with (b)(6), (b)(7)(C) in which (b)(6), (b)(7)(C) complained that as (b)(6), (b)(7)(C) (b)(6), (b)(7)(C) shouldn't make allegations against (b)(6), (b)(7)(C) PC3) when (b)(6), (b)(7)(C) briefed (b)(6), (b)(7)(C) on the discussion on or about 1 March 2017. (b)(6), (b)(7)(C) stated that (b)(6), (b)(7)(C) did not have a conversation with (b)(6), (b)(7)(C) to discuss (b)(6), (b)(7)(C) concerns with (b)(6), (b)(7)(C) actions (PC4). (Tab 05, 17)

### **Motive on the part of the RMO to reprise:**

(b)(6), (b)(7)(C) stated that HUE CITY had answered all the taskings related to the submitted IG complaints and that CNSL IG and CSG-2 were happy with the answers they received. (b)(6), (b)(7)(C) also stated that (b)(6), (b)(7)(C) didn't know who had filed the IG complaints and that (b)(6), (b)(7)(C) didn't care. The command provided answers to the ISIC and CNSL IG and continued on. Media stories detailing the fraternization charges being brought against two Chief Petty Officers for inappropriate relations with a Petty Officer assigned to HUE CITY, as well as the charges being pursued against four additional HUE CITY Chief Petty Officers who knew of the fraternization and failed to report it to the chain of command, were being published as early as 20 April 2017. (Tab 04, 09, 11, 17)

(b)(6), (b)(7)(C) testified that (b)(6), (b)(7)(C) PCs or alleged PCs had no bearing on (b)(6), (b)(7)(C) decision to issue (b)(6), (b)(7)(C) ADSEP notification. (Tab 17)

### **Disparate Treatment:**

(b)(6), (b)(7)(C) testified that of the six Chiefs involved in the cases of fraternization, which were identified in the 19 April 2017 note in the CO's Suggestion box (b)(6), (b)(7)(C) initiated ADSEP for five of the six members. (b)(6), (b)(7)(C) was the only one (b)(6), (b)(7)(C) did not initiate ADSEP proceedings on. (b)(6), (b)(7)(C) stated that (b)(6), (b)(7)(C) did not pursue ADSEP proceedings against (b)(6), (b)(7)(C) because (b)(6), (b)(7)(C) already had an approved retirement date. Navy Personnel Command (PERS-832) confirmed (b)(6), (b)(7)(C) retirement request had been approved by the Community Manager on 18 January 2017. (Tab 08, 17 34, 35, 36, 37, 38, 48)

### **Discussion:**

The preponderance of the evidence establishes that (b)(6), (b)(7)(C) did not issue (b)(6), (b)(7)(C) ADSEP Notification in reprisal for (b)(6), (b)(7)(C) protected communications. (b)(6), (b)(7)(C) was issued

ADSEP Notification as were four of the other five Chiefs associated with the fraternization incidents. The evidence indicates (b)(6), (b)(7)(C) based (b)(6), (b)(7)(C) decision on the evidence obtained during the command investigation and (b)(6), (b)(7)(C) belief that (b)(6), (b)(7)(C) knew (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) slept together and failed to report the violation to the chain of command as required by U.S. Navy Regulations Article 1137. (b)(6), (b)(7)(C) explained that it was a trust issue, and that (b)(6), (b)(7)(C) couldn't keep (b)(6), (b)(7)(C) on the ship anymore or use (b)(6), (b)(7)(C) as a Departmental Leading Chief Petty Officer working with sailors. (b)(6), (b)(7)(C) stated, *"You know, it takes away my good order and discipline, and so there's no way these guys would stick around on my ship after this. I couldn't trust them."* Additionally, (b)(6), (b)(7)(C) did not have a motive to reprise against (b)(6), (b)(7)(C) at the time of the personnel action as no unfavorable action had been taken against (b)(6), (b)(7)(C) related to (b)(6), (b)(7)(C) communications. Testimony from (b)(6), (b)(7)(C), Chief of Staff, CSG-2, (b)(6), (b)(7)(C) ISIC, confirmed at the time of (b)(6), (b)(7)(C) NJP that no negative actions had been taken against (b)(6), (b)(7)(C).

The allegation that (b)(6), (b)(7)(C) issued (b)(6), (b)(7)(C) Administrative Separation Processing (ADSEP) Notification, in reprisal, for (b)(6), (b)(7)(C) protected communications, in violation of DoD Directive 7050.06 is **not substantiated**.

Yes. A preponderance of the evidence establishes (b)(6), (b)(7)(C) would have influenced the personnel actions against (b)(6), (b)(7)(C) absent (b)(6), (b)(7)(C) protected communications.

**Allegation:** that that on or about 3 June 2017, (b)(6), (b)(7)(C) influenced (b)(6), (b)(7)(C) decision to issue (b)(6), (b)(7)(C) Administrative Separation Processing (ADSEP), in reprisal for (b)(6), (b)(7)(C) protected communications in violation of Title 10, United States Code, Section 1034 (10 U.S.C. §1034), Department of Defense Directive (DoDD) 7050.06, and Secretary of the Navy Instruction (SECNAVINST) 5370.7D, which prohibit reprisals against a military member for making or preparing to make or being perceived as having made or preparing to make a protected communication.

#### **Reason for the Personnel Action (PA):**

(b)(6), (b)(7)(C) stated that (b)(6), (b)(7)(C) did not provide specific guidance or a recommendation to (b)(6), (b)(7)(C) concerning the decision to issue (b)(6), (b)(7)(C) ADSEP notification. (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) testified that (b)(6), (b)(7)(C) discussed what actions should be pursued against all the Chiefs involved in the fraternization vice specific recommendations for each of the six Chiefs involved. (Tab 05, 17, 42)

#### **Timing Between PCs and the Personnel Action (PA):**

On 3 June 2017, (b)(6), (b)(7)(C) was found guilty at NJP and awarded a Punitive Letter of Reprimand which was 96 days after PC1, 95 days after PC2, 94 days after PC3, and 93 days after PC4. (b)(6), (b)(7)(C) testified that (b)(6), (b)(7)(C) saw (b)(6), (b)(7)(C) statement (PC1) when (b)(6), (b)(7)(C) reviewed it prior to it being sent to (b)(6), (b)(7)(C) on 3 March 2017. (b)(6), (b)(7)(C) explained that (b)(6), (b)(7)(C) became aware of the discussion in the Chief's Mess where (b)(6), (b)(7)(C) alleged that (b)(6), (b)(7)(C) was

the individual submitting complaints against (b)(6), (b)(7)(C) (PC2) on or about 28 February 2017. (b)(6), (b)(7)(C) testified that (b)(6), (b)(7)(C) was not aware of (b)(6), (b)(7)(C) conversation with (b)(6), (b)(7)(C) in which (b)(6), (b)(7)(C) complained that as (b)(6), (b)(7)(C), (b)(6), (b)(7)(C) shouldn't make allegations against (b)(6), (b)(7)(C) (PC3). (b)(6), (b)(7)(C) stated (b)(6), (b)(7)(C) had no knowledge of a conversation between (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) to discuss (b)(6), (b)(7)(C) concerns with (b)(6), (b)(7)(C) actions (PC4). (Tab 42)

### **Motive on the part of the RMO to reprise:**

While the numerous complaints were bringing unwanted attention to the USS HUE CITY, the CSG-2 Chief of Staff confirmed that no negative actions have been taken against (b)(6), (b)(7)(C) by (b)(6), (b)(7)(C) SIC and (b)(6), (b)(7)(C) confirmed no negative actions had been taken against (b)(6), (b)(7)(C) as a result of the IG complaints. (b)(6), (b)(7)(C) stated that HUE CITY had answered all the taskings related to the IG complaints submitted and the CNSL IG and CSG-2 were happy with the answers they received. The command provided answers to the ISIC and CNSL IG and continued on. (Tab 04, 05, 09, 11, 17, 42)

(b)(6), (b)(7)(C) testified that (b)(6), (b)(7)(C) PCs or alleged PCs had no bearing on the advice or counsel (b)(6), (b)(7)(C) provided (b)(6), (b)(7)(C) on how to proceed with disciplinary or administrative actions concerning the Chiefs involved in the fraternization situation, to include (b)(6), (b)(7)(C). (Tab 05, 17, 42)

### **Disparate Treatment:**

(b)(6), (b)(7)(C) testified that (b)(6), (b)(7)(C) followed the exact same process for each Chief Petty Officer case during (b)(6), (b)(7)(C) fact findings and XOI, which recommended that all six Chief Petty Officer cases should proceed to NJP. We have no specific testimonial or documentary evidence that (b)(6), (b)(7)(C) made specific recommendations on (b)(6), (b)(7)(C) ADSEP. (Tab 22-25, 42)

### **Discussion:**

The preponderance of the evidence established that (b)(6), (b)(7)(C) did not influence (b)(6), (b)(7)(C) decision to initiate ADSEP proceedings against (b)(6), (b)(7)(C) as an act of reprisal. (b)(6), (b)(7)(C) testified that (b)(6), (b)(7)(C) did not provide specific guidance to (b)(6), (b)(7)(C) on how to proceed in the case of (b)(6), (b)(7)(C); (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) both testified to the fact that (b)(6), (b)(7)(C) discussed how to proceed with the four Chief Petty Officers (b)(6), (b)(7)(C), (b)(6), (b)(7)(C), (b)(6), (b)(7)(C), and (b)(6), (b)(7)(C) who knew of the fraternization between (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) but failed to report the incident. A specific course of action regarding (b)(6), (b)(7)(C) was not discussed. Additionally, (b)(6), (b)(7)(C) confirmed that it was (b)(6), (b)(7)(C) decision to initiate ADSEP against (b)(6), (b)(7)(C), as well as (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) at the time of the of the NJP but (b)(6), (b)(7)(C) had to wait for the NJP appeal process to be completed before initiating ADSEP proceedings.



Therefore, the allegation that on or about 3 June 2017, (b)(6), (b)(7)(C) influenced (b)(6), (b)(7)(C) decision to issue (b)(6), (b)(7)(C) Administrative Separation Processing (ADSEP), in reprisal for (b)(6), (b)(7)(C) protected communications in violation of Title 10 U.S.C. §1034, DoDD 7050.06, and SECNAVINST 5370.7D is not-substantiated.

Yes. A preponderance of the evidence establishes (b)(6), (b)(7)(C) would have influenced the personnel actions against (b)(6), (b)(7)(C) absent (b)(6), (b)(7)(C) protected communications.

**Allegation:** That on or about 3 June 2017, (b)(6), (b)(7)(C) influenced (b)(6), (b)(7)(C) decision to issue (b)(6), (b)(7)(C) Administrative Separation Processing (ADSEP), in reprisal for (b)(6), (b)(7)(C) protected communications in violation of Title 10, United States Code, Section 1034 (10 U.S.C. §1034), Department of Defense Directive (DoDD) 7050.06, and Secretary of the Navy Instruction (SECNAVINST) 5370.7D, which prohibit reprisals against a military member for making or preparing to make or being perceived as having made or preparing to make a protected communication.

**Reason for the Personnel Action (PA):**

(b)(6), (b)(7)(C) 1 June 2017 interview, (b)(6), (b)(7)(C) stated that after (b)(6), (b)(7)(C) viewed the note that was placed in the CO's suggestion box which implicated members of the Chief's Mess as having fraternized with junior sailors (b)(6), (b)(7)(C) recommendation to (b)(6), (b)(7)(C) was "we gotta investigate, get to the bottom of who really knew what, who was really there, who wasn't there." (b)(6), (b)(7)(C) explained that after the XOI process when (b)(6), (b)(7)(C) determined everyone knew about the fraternization (b)(6), (b)(7)(C) supported moving forward with the charges against (b)(6), (b)(7)(C) and the rest of the Chiefs involved. (b)(6), (b)(7)(C) explained, "*We had to do something because, again, junior sailors look at that Chief's Mess and if we can't handle our own, I can't go down to the junior sailors and say 'hey, you're not holding each other accountable. We gotta be the example setters.'*" (Tab 05)

**Timing Between PCs and the Personnel Action (PA):**

On 24 April 2017, (b)(6), (b)(7)(C) was found guilty at NJP and awarded a Punitive Letter of Reprimand which was 56 days after PC1, 55 days after PC2, 54 days after PC3, and 53 days after PC4. (b)(6), (b)(7)(C) testified (b)(6), (b)(7)(C) did not know (b)(6), (b)(7)(C) provided a statement (PC1) as part of a command preliminary inquiry. (b)(6), (b)(7)(C) confirmed (b)(6), (b)(7)(C) was present for the discussion in the Chief's Mess where (b)(6), (b)(7)(C) alleged that (b)(6), (b)(7)(C) was the individual submitting complaints against (b)(6), (b)(7)(C) (PC2) on 28 February 2017. (b)(6), (b)(7)(C) confirmed (b)(6), (b)(7)(C) conversation (b)(6), (b)(7)(C) in which (b)(6), (b)(7)(C) complained that as the (b)(6), (b)(7)(C) shouldn't make allegations against (b)(6), (b)(7)(C) (PC3). (b)(6), (b)(7)(C) stated (b)(6), (b)(7)(C) had no knowledge of a conversation between (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) to discuss (b)(6), (b)(7)(C) concerns with (b)(6), (b)(7)(C) actions (PC4). (Tab 42)

**Motive on the part of the RMO to reprise:**

The fact that some of the submitted anonymous complaints made specific allegations of favoritism against (b)(6), (b)(7)(C) and questioned (b)(6), (b)(7)(C) ability (b)(6), (b)(7)(C) could be regarded as a possible motive to reprise. Additionally, there was a perception held by some on the ship that (b)(6), (b)(7)(C) was the individual who submitted the IG complaints against (b)(6), (b)(7)(C). The CSG-2 Chief of Staff confirmed that no negative actions have been taken against (b)(6), (b)(7)(C) by (b)(6), (b)(7)(C) ISIC, and (b)(6), (b)(7)(C) confirmed no negative actions had been taken against (b)(6), (b)(7)(C) as a result of the IG complaints. (b)(6), (b)(7)(C) stated that HUE CITY had answered all the taskings related to the IG complaints submitted and the CNSL IG and CSG-2 were happy with the answers they received. The command provided answers to the ISIC and CNSL IG and continued on. (b)(6), (b)(7)(C) testified that (b)(6), (b)(7)(C) PCs or alleged PCs had no bearing on her recommendation to (b)(6), (b)(7)(C) on how to proceed with accountability actions for (b)(6), (b)(7)(C) and the other Chiefs found guilty at NJP for failure to report. (Tab 04, 05, 09, 11, 17)

### Disparate Treatment:

(b)(6), (b)(7)(C) testified that (b)(6), (b)(7)(C) made the exact same recommendation for all six Chiefs regarding how to handle the NJP and administrative options, to include initiating ADSEP and DFC. (b)(6), (b)(7)(C) explained that (b)(6), (b)(7)(C) told (b)(6), (b)(7)(C) “we gotta investigate, get to the bottom of who really knew what, who was really there, who wasn’t there.” (b)(6), (b)(7)(C) explained that (b)(6), (b)(7)(C) had the discussion on how best to proceed with the Chiefs involved and that (b)(6), (b)(7)(C) supported initiating ADSEP proceedings. Both (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) confirmed (b)(6), (b)(7)(C) did discuss the cases and how to proceed. (Tab 05, 17)

### Discussion:

The preponderance of the evidence established that (b)(6), (b)(7)(C) did not influence (b)(6), (b)(7)(C) decision to initiate ADSEP proceedings against (b)(6), (b)(7)(C) as an act of reprisal. (b)(6), (b)(7)(C) was issued ADSEP Notification as were four of the other five Chiefs associated with the fraternization incident. (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) both testified to the fact that (b)(6), (b)(7)(C) discussed how to proceed with the four Chief Petty Officers (b)(6), (b)(7)(C) (b)(6), (b)(7)(C), (b)(6), (b)(7)(C), and (b)(6), (b)(7)(C) who knew of the fraternization between (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) but failed to report the incident. A specific course of action regarding (b)(6), (b)(7)(C) was not discussed. Additionally, (b)(6), (b)(7)(C) confirmed that it was (b)(6), (b)(7)(C) decision to initiate ADSEP against (b)(6), (b)(7)(C), as well as (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C), at the time of the of the NJP but (b)(6), (b)(7)(C) had to wait for the NJP appeal process to be completed before initiating ADSEP proceedings.

Therefore, the allegation that on or about 3 June 2017, (b)(6), (b)(7)(C) influenced (b)(6), (b)(7)(C) decision to issue (b)(6), (b)(7)(C) Administrative Separation Processing (ADSEP) notification, in reprisal for (b)(6), (b)(7)(C) protected communications in violation of Title 10 U.S.C. §1034, DoDD 7050.06, and SECNAVINST 5370.7D is **not-substantiated**.

## 20 June 2017- Requested Detachment for Cause

**Allegation:** that on 20 June 2017, (b)(6), (b)(7)(C) requested (b)(6), (b)(7)(C) be detached for cause by reason of misconduct in reprisal for (b)(6), (b)(7)(C) protected communications in violation of 10 U.S.C. §1034, DoDD 7050.06, and SECNAVINST 5370.7D, which prohibit reprisals against a military member for making or preparing to make or being perceived as having made or preparing to make a protected communication.

### **Analysis:**

### Reason for the Personnel Action (PA):

(b)(6), (b)(7)(C) 31 May 2017 interview (b)(6), (b)(7)(C) explained that based on the preponderance of the evidence (b)(6), (b)(7)(C) believed that (b)(6), (b)(7)(C) had become aware of the fraternization on/or about 7 February 2017 and failed to report and that was why (b)(6), (b)(7)(C) found (b)(6), (b)(7)(C) guilty of violating UCMJ Article 92 at NJP and awarded (b)(6), (b)(7)(C) a Punitive Letter of Reprimand. (b)(6), (b)(7)(C) further explained that it was (b)(6), (b)(7)(C) intention to pursue ADSEP and DFC processing for (b)(6), (b)(7)(C) when (b)(6), (b)(7)(C) made (b)(6), (b)(7)(C) termination at NJP but due to administrative requirements (b)(6), (b)(7)(C) had to wait until the NJP appeal process was complete before initiating ADSEP and DFC. When asked why (b)(6), (b)(7)(C) was pursuing ADSEP and DFC against (b)(6), (b)(7)(C) (b)(6), (b)(7)(C) stated, *"So I can't – you know, my reasoning here, I can't have these guys on (b)(6), (b)(7)(C) ship like this. I get a letter of reprimand, I cannot have (b)(6), (b)(7)(C) onboard as a Departmental LCPO, and trust (b)(6), (b)(7)(C) dealing with sailors in sticky situations like this with the Chief's Mess."* (b)(6), (b)(7)(C) further stated, *"I hate hypocrisy. These guys all have key leadership positions. You know, it takes away my good order and discipline, and so there's no way these guys would stick around on (b)(6), (b)(7)(C) hip after this. I couldn't trust them."* (Tab 17)

### Timing Between PCs and the Personnel Action (PA):

On 20 June 2017, (b)(6), (b)(7)(C) requested (b)(6), (b)(7)(C) be detached for cause which was 113 days after PC1, 112 days after PC2, 111 days after PC3, and 110 days after PC4. (b)(6), (b)(7)(C) testified that (b)(6), (b)(7)(C) saw (b)(6), (b)(7)(C) statement (PC1) when (b)(6), (b)(7)(C) reviewed and endorsed the command preliminary inquiry on 3 March 2017. (b)(6), (b)(7)(C) explained that (b)(6), (b)(7)(C) became aware of the discussion in the Chief's Mess where (b)(6), (b)(7)(C) alleged that (b)(6), (b)(7)(C) was the individual submitting complaints against (b)(6), (b)(7)(C) (PC2) on or about 28 February 2017. (b)(6), (b)(7)(C) testified that (b)(6), (b)(7)(C) became aware of (b)(6), (b)(7)(C) conversation with (b)(6), (b)(7)(C) in which (b)(6), (b)(7)(C) complained that (b)(6), (b)(7)(C), (b)(6), (b)(7)(C) shouldn't make allegations against (b)(6), (b)(7)(C) (PC3) when (b)(6), (b)(7)(C) briefed (b)(6), (b)(7)(C) on the discussion on or about 1 March 2017. (b)(6), (b)(7)(C) stated that (b)(6), (b)(7)(C) did not have a conversation with (b)(6), (b)(7)(C) to discuss (b)(6), (b)(7)(C) concerns with (b)(6), (b)(7)(C) actions (PC4). (Tab 05, 17)

### Motive on the part of the RMO to reprise:



Testimony from (b)(6), (b)(7)(C), Chief of Staff, CSG-2, (b)(6), (b)(7)(C) ISIC, confirmed no negative actions had been taken against (b)(6), (b)(7)(C) as a result of the IG complaints. (b)(6), (b)(7)(C) stated that HUE CITY had answered all the tasking related to the submitted IG complaints and that CNSL IG and CSG-2 were happy with the answers they received (b)(6), (b)(7)(C) also stated that (b)(6), (b)(7)(C) didn't know who had filed the IG complaints and that (b)(6), (b)(7)(C) didn't care. The command provided answers to the ISIC and CNSL IG and continued on. Media stories detailing the fraternization charges being brought against two Chief Petty Officers for inappropriate relations with a Petty Officer assigned to HUE CITY as well as the charges being pursued against four additional HUE CITY Chief Petty Officers who knew of the fraternization and failed to report it to the chain of command, were being published as early as 20 April 2017. (Tab 04, 09, 11, 17)

(b)(6), (b)(7)(C) testified that (b)(6), (b)(7)(C) PCs or alleged PCs had no bearing on (b)(6), (b)(7)(C) decision to issue (b)(6), (b)(7)(C) ADSEP notification. (Tab 17)

### **Disparate Treatment:**

(b)(6), (b)(7)(C) testified that of the six Chiefs involved in the cases of fraternization identified in the 19 April 2017 note in the CO's Suggestion box (b)(6), (b)(7)(C) requested detachment for cause for five of the six members. (b)(6), (b)(7)(C) was the only one (b)(6), (b)(7)(C) did not request detachment for cause. (b)(6), (b)(7)(C) stated that (b)(6), (b)(7)(C) did not pursue detachment for cause in the case of (b)(6), (b)(7)(C) because (b)(6), (b)(7)(C) already had an approved retirement date. (Tab 08, 17, 34-38)

### **Discussion:**

The preponderance of the evidence establishes that (b)(6), (b)(7)(C) did not request (b)(6), (b)(7)(C) be detached for cause in reprisal for (b)(6), (b)(7)(C) protected communications. The detachment for cause requested for (b)(6), (b)(7)(C) was the same action requested for four of the other five Chiefs associated with the fraternization incident. The only exception was the Chief who had already been approved for retirement. The evidence indicates (b)(6), (b)(7)(C) based (b)(6), (b)(7)(C) decision on the evidence obtained during the command investigation and (b)(6), (b)(7)(C) belief that (b)(6), (b)(7)(C) knew (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) slept together and failed to report the violation to the chain of command as required by U.S. Navy Regulations Article 1137. Additionally, (b)(6), (b)(7)(C) did not have a motive to reprise against (b)(6), (b)(7)(C) at the time of the personnel action as no unfavorable action had been taken against (b)(6), (b)(7)(C) related to (b)(6), (b)(7)(C) communications. Testimony from (b)(6), (b)(7)(C), Chief of Staff, CSG-2 and (b)(6), (b)(7)(C) ISIC, confirmed no negative actions had been taken against (b)(6), (b)(7)(C) at the time of (b)(6), (b)(7)(C) NJP and (b)(6), (b)(7)(C) subsequent FITREP corroborates no impacts. (b)(6), (b)(7)(C) requested (b)(6), (b)(7)(C) be detached for cause as (b)(6), (b)(7)(C) did with four of the other five Chiefs associated with the fraternization incident. (Tab 56)

Therefore, the allegation that on 20 June 2017, (b)(6), (b)(7)(C) requested (b)(6), (b)(7)(C) be detached for cause by reason of misconduct, in reprisal for (b)(6), (b)(7)(C) protected

communications in violation of Title 10 U.S.C. §1034, DoDD 7050.06, and SECNAVINST 5370.7D is not-substantiated.

Yes. A preponderance of the evidence establishes (b)(6), (b)(7)(C) would have influenced the personnel actions against (b)(6), (b)(7)(C) absent (b)(6), (b)(7)(C) protected communications.

**Allegation:** that on or about 20 June 2017, (b)(6), (b)(7)(C) influenced (b)(6), (b)(7)(C) decision to request (b)(6), (b)(7)(C) be detached for cause, in reprisal for (b)(6), (b)(7)(C) protected communications in violation of Title 10, United States Code, Section 1034 (10 U.S.C. §1034), Department of Defense Directive (DoDD) 7050.06, and Secretary of the Navy Instruction (SECNAVINST) 5370.7D, which prohibit reprisals against a military member for making or preparing to make or being perceived as having made or preparing to make a protected communication.

**Reason for the Personnel Action (PA):**

(b)(6), (b)(7)(C) stated that (b)(6), (b)(7)(C) did not provide specific guidance or a recommendation to (b)(6), (b)(7)(C) concerning the decision to request (b)(6), (b)(7)(C) be detached for cause. (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) testified that (b)(6), (b)(7)(C) discussed what actions should be pursued against all the Chiefs involved in the fraternization vice specific recommendations for each of the six Chiefs involved. (Tab 05, 17)

**Timing Between PCs and the Personnel Action (PA):**

On 3 June 2017, (b)(6), (b)(7)(C) was found guilty at NJP and awarded a Punitive Letter of Reprimand which was 113 days after PC1, 112 days after PC2, 111 days after PC3, and 110 days after PC4. (b)(6), (b)(7)(C) testified that (b)(6), (b)(7)(C) saw (b)(6), (b)(7)(C) statement (PC1) when (b)(6), (b)(7)(C) reviewed it prior to it be sent to (b)(6), (b)(7)(C) on 3 March 2017. (b)(6), (b)(7)(C) explained that (b)(6), (b)(7)(C) became aware of discussion in the Chief's Mess where (b)(6), (b)(7)(C) alleged that (b)(6), (b)(7)(C) was the individual submitting complaints against (b)(6), (b)(7)(C) (PC2) on or about 28 February 2017. (b)(6), (b)(7)(C) testified that (b)(6), (b)(7)(C) was not aware of (b)(6), (b)(7)(C) conversation with (b)(6), (b)(7)(C) in which (b)(6), (b)(7)(C) complained that (b)(6), (b)(7)(C), (b)(6), (b)(7)(C) shouldn't be making allegations against (b)(6), (b)(7)(C) (PC3). (b)(6), (b)(7)(C) stated (b)(6), (b)(7)(C) had no knowledge of a conversation between (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) to discuss (b)(6), (b)(7)(C) concerns with (b)(6), (b)(7)(C) actions (PC4). (Tab 42)

**Motive on the part of the RMO to reprise:**

While the numerous complaints were bringing unwanted attention to the USS HUE CITY, the CSG-2 Chief of Staff confirmed that no negative actions have been taken against (b)(6), (b)(7)(C) by (b)(6), (b)(7)(C) ISIC and (b)(6), (b)(7)(C) confirmed no negative actions had been taken against (b)(6), (b)(7)(C) as a result of the IG complaints. (b)(6), (b)(7)(C) stated that they had answered all the taskings related to the IG complaints submitted and the CNSL IG and CSG-2 were happy with



the answers they received. The command provided answers to the ISIC and CNSL IG and continued on. (Tab 04, 09, 11, 17, 42)

(b)(6), (b)(7)(C) testified that (b)(6), (b)(7)(C) PCs or alleged PCs had no bearing on (b)(6), (b)(7)(C) decision to recommend (b)(6), (b)(7)(C) case continue to NJP where (b)(6), (b)(7)(C) was found guilty of violating UCMJ Article 92 and issued a punitive letter of reprimand. (Tab 17, 42)

### **Disparate Treatment:**

(b)(6), (b)(7)(C) testified that (b)(6), (b)(7)(C) followed the exact same process during the fact finding stage and during XOI recommend all six of the Chiefs involved should proceed to NJP. We have no specific testimonial or documentary evidence that (b)(6), (b)(7)(C) provided specific influence concerning the decision to request (b)(6), (b)(7)(C) be detached for cause. Additionally, (b)(6), (b)(7)(C) requested four of the other five Chiefs involved in the fraternization incidents be detached for cause. (Tab 39, 42, 49-52)

### **Discussion:**

The preponderance of the evidence established that (b)(6), (b)(7)(C) did not influence (b)(6), (b)(7)(C) decision to initiate detachment for cause proceedings against (b)(6), (b)(7)(C) as an act of reprisal. The detachment for cause requested for (b)(6), (b)(7)(C) was the same action requested for four of the other five Chiefs associated with the fraternization incident. The only exception was the Chief who had already been approved for retirement. While (b)(6), (b)(7)(C) testified that (b)(6), (b)(7)(C) did not provide specific guidance to (b)(6), (b)(7)(C) on how to proceed in the case of (b)(6), (b)(7)(C) (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) both testified to the fact that (b)(6), (b)(7)(C) discussed how to proceed with the four Chief Petty Officers (b)(6), (b)(7)(C), (b)(6), (b)(7)(C), (b)(6), (b)(7)(C), and (b)(6), (b)(7)(C) who knew of the fraternization between (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) but failed to report the incident. A specific course of action regarding (b)(6), (b)(7)(C) was not discussed. Additionally, (b)(6), (b)(7)(C) confirmed that it was (b)(6), (b)(7)(C) decision to initiate detachment for cause against (b)(6), (b)(7)(C) as well as (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) at the time of the the of the NJP, but (b)(6), (b)(7)(C) had to wait for the NJP appeal process to be completed before initiating proceedings.

Therefore, the allegation that on or about 20 June 2017, (b)(6), (b)(7)(C) influenced (b)(6), (b)(7)(C) decision to request (b)(6), (b)(7)(C) be detached for cause, in reprisal for (b)(6), (b)(7)(C) protected communications in violation of Title 10 U.S.C. §1034, DoDD 7050.06, and SECNAVINST 5370.7D is **not-substantiated**.

Yes. A preponderance of the evidence establishes (b)(6), (b)(7)(C) would have influenced the personnel actions against (b)(6), (b)(7)(C) absent (b)(6), (b)(7)(C) protected communications.

**Allegation:** that on or about 20 June 2017, (b)(6), (b)(7)(C) influenced (b)(6), (b)(7)(C) decision to request (b)(6), (b)(7)(C) be detached for cause, in reprisal for (b)(6), (b)(7)(C) protected communications in violation of Title 10, United States Code, Section 1034 (10 U.S.C. §1034),

Department of Defense Directive (DoDD) 7050.06, and Secretary of the Navy Instruction (SECNAVINST) 5370.7D, which prohibit reprisals against a military member for making or preparing to make or being perceived as having made or preparing to make a protected communication.

**Reason for the Personnel Action (PA):**

(b)(6), (b)(7)(C) 1 June 2017 interview. (b)(6), (b)(7)(C) stated (b)(6), (b)(7)(C) recommendation to (b)(6), (b)(7)(C) that, "we gotta investigate, get to the bottom of who really knew what, who was really there, who wasn't there." after the note was placed in the CO's suggestion box that alleged fraternization by two Chief Petty Officers with a Second Class Petty Officer and that additional members of the Chief's Mess knew of the fraternization. (b)(6), (b)(7)(C) explained that after the XOI process when (b)(6), (b)(7)(C) determined everyone knew about the fraternization (b)(6), (b)(7)(C) supported moving forward with the charges against (b)(6), (b)(7)(C) and the rest of the Chiefs involved. (b)(6), (b)(7)(C) explained, "*We had to do something because, again, junior sailors look at that Chief's Mess and if we can't handle our own, I can't go down to the junior sailors and say 'hey, you're not holding each other accountable. We gotta be the example setters.'*" (Tab 05)

**Timing Between PCs and the Personnel Action (PA):**

On 24 April 2017, (b)(6), (b)(7)(C) was found guilty at NJP and awarded a Punitive Letter of Reprimand which was 113 days after PC1, 112 days after PC2, 111 days after PC3, and 110 days after PC4. (b)(6), (b)(7)(C) testified that (b)(6), (b)(7)(C) did not know (b)(6), (b)(7)(C) provided a statement (PC1) as part of a command preliminary inquiry. (b)(6), (b)(7)(C) confirmed (b)(6), (b)(7)(C) was present for the discussion in the Chief's Mess where (b)(6), (b)(7)(C) alleged that (b)(6), (b)(7)(C) was the individual submitting complaints against (b)(6), (b)(7)(C) (PC2) on 28 February 2017. (b)(6), (b)(7)(C) confirmed (b)(6), (b)(7)(C) conversation with (b)(6), (b)(7)(C) in which (b)(6), (b)(7)(C) complained that (b)(6), (b)(7)(C) should'n't be making allegations against (b)(6), (b)(7)(C) (PC3). (b)(6), (b)(7)(C) stated (b)(6), (b)(7)(C) had no knowledge of a conversation between (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) to discuss (b)(6), (b)(7)(C) concerns with (b)(6), (b)(7)(C) actions (PC4). (Tab 05)

**Motive on the part of the RMO to reprise:**

The fact that some of the anonymous complaints submitted made specific allegations of favoritism against (b)(6), (b)(7)(C) and questioned (b)(6), (b)(7)(C) ability (b)(6), (b)(7)(C) would be a possible motive to reprise. Additionally, there was a perception held by some on the ship that (b)(6), (b)(7)(C) was submitting the IG complaints against (b)(6), (b)(7)(C). The CSG-2 Chief of Staff confirmed that no negative actions have been taken against (b)(6), (b)(7)(C) by (b)(6), (b)(7)(C) ISIC and (b)(6), (b)(7)(C) confirmed no negative actions had been taken against (b)(6), (b)(7)(C) as a result of the IG complaints. (b)(6), (b)(7)(C) stated that they had answered all the taskings related to the IG complaints submitted and the CNSL IG and CSG-2 were happy with the answers they received. The command provided answers to the ISIC and CNSL IG and continued on. (b)(6), (b)(7)(C) testified that (b)(6), (b)(7)(C) PCs or alleged PCs had no

bearing on (b)(6), (b)(7)(C) recommendation to (b)(6), (b)(7)(C) on how to proceed with accountability actions for (b)(6), (b)(7)(C) and the other Chiefs found guilty at NJP for failure to report. (Tab 04, 05, 09, 11, 17)

### **Disparate Treatment:**

(b)(6), (b)(7)(C) testified that (b)(6), (b)(7)(C) made the exact same recommendation for how to handle the allegations of fraternization and the failure to report against all six of the Chiefs, (b)(6), (b)(7)(C) explained (b)(6), (b)(7)(C) told (b)(6), (b)(7)(C) “we gotta investigate, get to the bottom of who really knew what, who was really there, who wasn’t there.” (b)(6), (b)(7)(C) explained that (b)(6), (b)(7)(C) had the discussion on how to proceed with the cases against the Chiefs involved and that (b)(6), (b)(7)(C) supported the cases going to XOI and NJP. We have no specific testimonial or documentary evidence regarding (b)(6), (b)(7)(C) influencing (b)(6), (b)(7)(C) decision to request detachment for cause. Both (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) confirmed (b)(6), (b)(7)(C) did discuss the cases and how to proceed. (Tab 05, 17)

### **Discussion:**

The preponderance of the evidence establishes that (b)(6), (b)(7)(C) did not influence (b)(6), (b)(7)(C) decision to request (b)(6), (b)(7)(C) be detached for cause, in reprisal for (b)(6), (b)(7)(C) protected communications. The detachment for cause requested for (b)(6), (b)(7)(C) was the same action requested for four of the other five Chiefs associated with the fraternization incident. The only exception was the Chief who had already been approved for retirement. The evidence indicates (b)(6), (b)(7)(C) based (b)(6), (b)(7)(C) recommendation on how to handle the cases on evidence obtained during the command investigation and (b)(6), (b)(7)(C) belief that (b)(6), (b)(7)(C) knew (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) slept together and failed to report the violation to the chain of command as required by U.S. Navy Regulations Article 1137. Finally, the command requested (b)(6), (b)(7)(C) and four of the other five Chiefs involved in the fraternization incident be detached for cause.

Therefore, the allegation that on or about 20 June 2017, (b)(6), (b)(7)(C) influenced (b)(6), (b)(7)(C) decision to request (b)(6), (b)(7)(C) be detached for cause, in reprisal for (b)(6), (b)(7)(C) protected communications in violation of Title 10 U.S.C. §1034, DoDD 7050.06, and SECNAVINST 5370.7D is **not-substantiated**.

## **CONCLUSION**

We found (b)(6), (b)(7)(C) did not take the unfavorable personnel actions, and (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) did not influence the decision to take the unfavorable personnel actions, against (b)(6), (b)(7)(C) in reprisal for (b)(6), (b)(7)(C) protected communications. Therefore, we concluded the allegations against (b)(6), (b)(7)(C), (b)(6), (b)(7)(C), and (b)(6), (b)(7)(C) are **not-substantiated**.

## **RECOMMENDATION**

USFF IG recommends closing this case without further action.